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Federal Register

Wednesday
August 7, 1985

Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

Selected Subjects

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Justice Department

Savings and Loan Association
Federal Home Loan Bank Board

Surface Mining
Surface Mining Reclamation and Enforcement Office

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THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: September 6 and 27; at 9 am (identical sessions).

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Call Martin Franks, Workshop Coordinator, 202-523-5239.

FUTURE WORKSHOPS: Additional workshops are scheduled bimonthly in Washington starting in November. The January 1986 workshop will include facilities for the hearing impaired. Dates will be announced later.

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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Presidential Determination No. 85–14 of July 1, 1985

Suspension of Foreign Air Transportation to Lebanon by U.S. Air Carriers and of Foreign Air Transportation by Lebanese Carriers

Memorandum for the Honorable Elizabeth H. Dole, the Secretary of Transportation

By virtue of the authority vested in me by Section 1114(a) of the Federal Aviation Act of 1958, as amended ("the Act"), I hereby:

(1) determine that Lebanon is acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft;

(2) suspend the rights of all air carriers within the meaning of Section 101(3) of the Act to engage in foreign air transportation, whether direct or indirect (including through interline agreements), to and from Lebanon; and

(3) suspend the rights of Middle East Airlines Airliban, S.A.L. (MEA), on its own behalf, and Trans-Mediterranean Airways, S.A.L. (TMA), both Lebanese carriers, to engage in foreign air transportation within the meaning of Section 101(24) of the Act.

You are requested to bring this determination and these suspensions immediately to the attention of all air carriers within the meaning of Section 101(3) of the Act and to the attention of MEA and TMA.

This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, July 1, 1985.

[FR Doc. 85–18861
Filed 8–6–85; 9:02 am]
Billing code 4910–62–M

Rules and Regulations

Federal Register
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FEDERAL HOME LOAN BANK BOARD

12 CFR Part 572a

Voluntary Assisted-Merger Program

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; request for comments.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC or Corporation"), has determined to extend the operation of its Voluntary Assisted-Merger Program, which had been established on a test basis ending June 30, 1985, to June 30, 1987, in order to provide a better opportunity to use and study its benefits. In addition, the Board has determined to include state-chartered mutual savings banks as Qualified Acquirers in order to enhance the effectiveness of the program. The Board is also taking the opportunity to make a number of technical amendments to the program.

DATES: Effective Date: August 7, 1985.
Comments due by: October 7, 1985.

ADDRESS: Send comments to Director, Information Services, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available for public inspection at the same address.

FOR FURTHER INFORMATION CONTACT: Gregory B. Smith, Senior Corporate Attorney (202–377–6454), Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: The Voluntary Assisted-Merger Program, 12 CFR Part 572a of the Regulations for the Federal Savings and Loan Insurance Corporation ("Insurance Regulations"), which was promulgated by the Board on June 9, 1983, Board Resolution No. 83–333 (48 FR 27394, June 15, 1983), delegates to the Board's Principal Supervisory Agents authority to negotiate and approve certain mergers and acquisitions of eligible insured institutions, as designated by the Board, and to authorize financial assistance from the FSLIC to facilitate such mergers and acquisitions. The delegated authority covers mergers and acquisitions assisted by the FSLIC and voluntarily entered into by the affected institutions. The Board's action was intended to permit earlier resolution of relatively simple cases, to reduce the time and costs required to complete those solutions, and to encourage innovative approaches to resolving the financial problems of insured institutions.

I. Extension of Sunset Date

The Board initially viewed the program as a temporary measure necessitated by adverse operating conditions, caused by high interest rates, experienced by the thrift industry in the early 1980's. The program therefore carried a termination date of December 31, 1983. The Board since then has extended the program, most recently to June 30, 1985, and has now determined that operating conditions in the thrift industry continue to warrant use of the program and that, therefore, the program should be continued for an additional twenty-four months.

II. Substantive Amendments

In addition, the Board has determined to expand the scope of the program and to adopt a number of technical clarifying amendments. The type of institution ("Qualified Acquirer") authorized until now to acquire a financially troubled institution under the program has been limited to the following types of institutions: (1) State-chartered savings and loan associations and savings banks the accounts of which are insured by the FSLIC, and (2) federally chartered savings and loans associations and savings banks the accounts of which are insured by the FSLIC or the Federal Deposit Insurance Corporation ("FDIC"). 12 CFR 572a.2(d) (1984). Those institutions have been required to be (1) held in mutual form; (2) located in the same state as the troubled association which is to be acquired; and (3) in conformance with minimum specified financial standards.

State-chartered mutual savings banks insured by the FDIC have not been qualified to acquire an FSLIC-insured institution under the Voluntary Assisted-Merger Program. The Board is of the view, however, that the addition of state-chartered FDIC-insured mutual savings banks to the group of potential Qualified Acquirers would enhance the potential effectiveness of the Program in light of the significant number of those institutions in existence. The Board also has determined that the acquisition and merger of troubled FSLIC-insured state-chartered associations into a state-chartered FDIC-insured mutual savings bank located in the same state would be consistent with the original purposes of the program. Therefore, the Board has determined to amend the definition of "Qualified Acquirer" in § 572a.2 to include state-chartered FDIC-insured mutual savings banks that meet the other requirements contained in that definition.

III. Technical Amendments

The Board has taken this opportunity to clarify the intended scope of the transactions considered to be eligible for approval under the program.

A. Intrastate Transactions

The Voluntary Assisted-Merger Program was intended to cover only intrastate transactions. Interstate transactions, which involve institutions located in different states, may raise complex legal and policy issues and were deemed inappropriate for inclusion in the program. The current definition of "Qualified Acquirer" includes an "institution which maintains one or more branches in the same state" as the problem institution to be acquired. That language has always been interpreted to include only intrastate mergers and interstate mergers constituting interstate branching that is permissible on a nonsupervisory basis under the Board's branching policy statement, 12 CFR 556.5(a)(3) (i) and (iv) (1985). Under that policy statement, interstate branching by federal mutual associations is permissible on a nonsupervisory basis only where the acquiring institution had already established a branch in the state in which the target institution is located, as part of a supervisory transaction that qualifies for the supervisory interstate

branching exception in the Board's branching policy statement. 12 CFR 556.5(e)(3)(iv) (1985). The Board therefore has amended the definition of Qualified Acquirer to clarify that it includes only institutions that, whether or not federally chartered, could acquire the branches of the target institution on a nonsupervisory basis pursuant to the standards set forth in < 556.5(a)(3) (i) and (iv) of the Board's branching policy statement.

B. Net-Worth Requirement

The Board also has determined that the definition of Qualified Acquirer is in need of clarification with regard to the minimum net-worth requirements imposed on a Qualified Acquirer. Pursuant to the previous regulatory language, following the merger or acquisition the Qualified Acquirer was required to have a ratio of regulatory net worth to total assets (after giving effect to the assistance to be provided by the FSLIC) of at least three percent. At the time that provision was promulgated, the three-percent requirement approximated the minimum regulatory net worth required of an insured institution under the Board's regulations. In order to update the net-worth requirement under the program to conform to the Board's recent net-worth amendments and any future changes to the net-worth regulation, the Board has amended the net-worth requirement imposed on Qualified Acquirers to require that the Qualified Acquirer have net worth equal to the amount required by 12 CFR 563.13(b). In this connection, the net-worth requirement and viability requirements have been deleted from the definition of Qualified Acquirer, since those requirements are already contained in the limitations on the approval authority of the Principal Supervisory Agent in § 572a.5 (c)(2). FDIC-insured state-chartered mutual savings banks would be required to meet the minimum capital-adequacy requirements imposed by the FDIC.

C. Other Definitional Changes

The Board also is taking this opportunity to amend the definition of "Eligible Institution," which is the target institution to be acquired with FSLIC assistance, to clarify that FDIC-insured federal associations are not included within the meaning of that term.

Further, the Board is adding a definition of "acquisition", as used throughout the Voluntary Assisted-Merger Program regulations in conjunction with the term "merger," to indicate that "acquisition" only includes the acquisition of all of the assets and liabilities of a target state-chartered mutual institution in a transaction where that institution's charter, Federal Home Loan Bank membership and FSLIC insurance of accounts are terminated upon consummation of the transfer of its assets and liabilities. That term does not include federally chartered associations since approval of the dissolution of such associations is not delegated to the Principal Supervisory Agent. 12 CFR 546.4 (1985).

The Board has also determined that the Voluntary Assisted-Merger Program regulations need to be clarified regarding the Board's other regulations which apply to the approval of transactions by the PSA under the Program. Currently, the regulations, § 572a.5 (c)(5), only incorporate by reference § 546.2, which applies solely to merger transactions involving a federal association. However, the Voluntary Assisted-Merger Program is also designed to facilitate transactions which could involve a merger involving state-chartered institutions or aquisitions of assets and liabilities involving either state or federally chartered institutions, which are governed by § 563.22. Therefore, the Board is amending the regulation to include corresponding references to § 563.22.

List of Subjects in 12 CFR Part 572a

Federal Home Loan Bank Board, Savings and Loan Association, Federal Savings and Loan Insurance Corporation, Voluntary Assisted Merger Program.

The Board finds that observance of the public notice and comment procedures pursuant to 5 U.S.C. 553(b) and 12 CFR 508.12 and delay of effective date pursuant to 5 U.S.C. 553(d) and 12 508.14, is unnecessary and inappropriate in this case, because the amendments pertain to internal Board procedures and practices whereby currently exercised Board activities are delegated to the Board's Principal Supervisory Agents.

However, the Board will entertain comments regarding this program in determining whether any additional changes are appropriate.

Accordingly, the Board hereby amends Part 572a of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

Subchapter D—Federal Savings and Loan Insurance Corporation

PART 572a—VOLUNTARY ASSISTED-MERGER PROGRAM

1. The authority for Part 572a continues to read:

Authority: Secs. 401, 402, 403, 405, 406, and 407, 48 Stat. 1255, 1256, 1257, 1259, and 1260, as amended (12 U.S.C. 1724, 1725, 1726, 1728, 1729, and 1730); secs. 2 and 5, 28 Stat. 128 and 132, as amended (12 U.S.C. 1462 and 1464); Reorg. Plan No. 3 of 1947, CFR Parts 1943–1948 Comp., p. 1071.

2. Amend § 572a.2 by redesignating paragraphs (b), (c), (d), (e), and (f) thereof as paragraphs (c), (d), (e), (f), and (g), respectively; by adding a new paragraph (b) thereto; and by revising redesignated paragraphs (d) and (e); as follows:

§ 572a.2 Definitions.

* * * * *

(b) *Acquisition.* The acquisition by a Qualified Acquirer of all of the assets and liabilities of a state-chartered Eligible Institution in a transaction where the Eligible Institution's charter, Federal Home Loan Bank membership and insurance of accounts by the Corporation are terminated upon consummation of the transfer of its assets and liabilities to the Qualified Acquirer.

* * * * *

(d) *Eligible Institution.* An institution whose accounts are insured by the Corporation and which has been designated by the Corporation as meeting the qualifications of § 572a.3 of this Part.

(e) *Qualified Acquirer.* A mutually held institution whose accounts are insured by the Corporation, or a state or federally chartered mutual savings bank whose accounts are insured by the Federal Deposit Insurance Corporation.

* * * * *

3. Amend § 572a.5 by revising paragraph (c)(2)(ii), removing "and" at the end of paragraph (c)(4), replacing the period at the end of paragraph (c)(5) with a semicolon and inserting "and" following the semicolon, revising paragraph (c)(5), and adding new paragraph (c)(6), as follows:

§ 572a.5 Actions by the Principal Supervisory Agent.

* * * * *

(c) *Approvals.* * * *

(2) * * *

(ii) Have a net worth throughout that period at least equal to that required by § 563.13(b) of this subchapter, if the resulting or acquiring institution is a federal association or its accounts are insured by the Corporation, or have capital at least equal to the minimum capital required of that institution by the Federal Deposit Insurance Corporation, if the resulting or acquiring institution is

insured by the Federal Deposit Insurance Corporation;

* * * * *

(5) The merger or acquisition could be approved under § 546.2 (h) or § 563.22(e) of this chapter, without regard to §§ 546.2(h)(i) and (xiii) and 563.22(e)(1)(i) and (xiii). In connection with a merger or acquisition so approved, a Principal Supervisory Agent may grant the resulting institution supervisory forbearances as provided in §§ 546.2(i)(3)(i)–(v) and 563.22(f)(3) of this chapter.

(6) The Qualified Acquirer (if it were federally chartered) would be permitted to acquire the Eligible Institution's branches pursuant to the provisions of § 556.5(a)(3)(i) or (iv) of this chapter.

* * * * *

4. Revise paragraph (a) of § 572a.6, as follows:

* * * * *

§ 572a.6 Sunset.

(a) The Voluntary Assisted-Merger Program shall terminate on June 30, 1987, unless extended by regulatory amendment by the Corporation.

* * * * *

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 85-18713 Filed 8-6-85; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-AWP-2]

Alteration of VOR Federal Airway V-460—San Diego, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters Federal Airway V-460 extending it from Mission Bay, CA, to Julian, CA. This action is to help reduce air traffic controller workload by eliminating the need for radar vectoring of traffic circumnavigating the Naval Air Station (NAS) Miramar traffic flows.

EFFECTIVE DATE: 0901 G.m.t. September 26, 1985.

FOR FURTHER INFORMATION CONTACT: Burton Chandler, Airspace and Air Traffic Rules Branch (ATO-230), Airspace—Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On February 21, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend VOR Federal Airway V-460 by extending it from Mission Bay, CA, to Julian, CA (50 FR 7184). The proposal was the result of a need to eliminate unnecessary vectoring of traffic to avoid the NAS Miramar traffic flows. Additionally, east and northeast departures from the San Diego area would utilize this routing and avoid the NAS Miramar arrivals. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations will extend VOR Federal Airway V-460 from Mission Bay, CA, to Julian, CA. The airway segment will reduce air traffic controller workload by eliminating the need for radar vectoring of traffic circumnavigating the NAS Miramar traffic flows.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

VOR Federal airways, Aviation safety.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.123 is amended as follows:

V-460 [Amended]

By removing the words "From Poggi, CA, via Julian, CA;" and substituting the words "From Mission Bay, CA; INT Mission Bay 091° and Julian, CA, 185° radials; Julian;"

Issued in Washington, D.C., on July 30, 1985.

James Burns, Jr.,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 85-18668 Filed 8-6-85; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Contract Market Rule Review Procedures

Correction

In FR Doc. 85-17535, beginning on page 30135, in the issue of Wednesday, July 24, 1985, make the following correction:

On page 30139, second column, in § 1.41(l)(2), eleventh line, "5a(1)" should read "5a(12)".

BILLING CODE 1505-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 274

[Release Nos. 33-6591B; 34-22194B; IC-14606B; File Nos. S7-1-85; S7-2-85]

Withdrawal of Quarterly Reporting Forms and Filing Obligations of Certain Registered Investment Companies; Incorporation of Quarterly Reporting Obligations in Form N-SAR; Adoption of Conforming Amendments to Registration Forms; Related Rule Amendments; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; correction.

SUMMARY: On July 1, 1985, the Commission issued a release rescinding the quarterly reporting obligations of issuers of periodic payment plan certificates (50 FR 27937, July 9, 1985) by removing rules 27d–3 (17 CFR 270.27d–3) and 27d–4(T) (17 CFR 270.27d–4(T). The Commission is now correcting that release to withdraw the obligation to file form N–27D–2 (17 CFR 274.127d–2), the quarterly reporting form for issuers of periodic payment plan certificates under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*).

EFFECTIVE DATE: August 8, 1985.

FOR FURTHER INFORMATION CONTACT: William C. Gibbs, Attorney, Office of Regulatory Policy, (202) 272–2048.

List of Subjects in 17 CFR Part 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Accordingly, the SEC is correcting FR Doc. 85–16247, by adding the following amendatory language:

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

"22. By removing § 274.127d–2."

By the Commission.

Dated: July 24, 1985.

John Wheeler,

Secretary.

[FR Doc. 85–18661 Filed 8–6–85; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 84F–0329]

Indirect Food Additives; Polymers

Correction

In FR Doc. 85–17527 beginning on page 30145 in the issue of Wednesday, July 24, 1985, make the following corrections: In the third column, in the third complete paragraph, in the fourteenth line "21 FR" should read "21 CFR"; in the seventeenth line "50 CFR" should read "50 FR"

BILLING CODE 1505–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

Modification of Timber Sale Extension Policy

AGENCY: Forest Service, USDA.

ACTION: Notice of adoption of final policy.

SUMMARY: The Forest Service hereby gives notice of adoption of final policy on modification of the 1983 Forest Service timber sale contract extension policy in order to accommodate the effects of the Federal Timber Contract Payment Modification Act. A notice of interim policy on modification of timber sale extension policy was published January 4, 1985, at 50 FR 458.

EFFECTIVE DATE: August 19, 1985.

FOR FURTHER INFORMATION CONTACT: David M. Spores, Timber Management Staff, Forest Service USDA, P.O. Box 2417, Washington, DC 20013, (202) 447–4051.

SUPPLEMENTARY INFORMATION:

Background

On December 7, 1983, at 48 FR 54812, the Forest Service, at the direction of the President, established a program to extend certain timber sale contracts for a period up to five years beyond their current termination dates. Timber sale purchasers prepared Multi-Sale Extension Plans to implement this program. The Federal Timber Contract Payment Modification Act of October 16, 1984, (98 Stat. 2213; 16 U.S.C. 618) authorizes and directs the Secretary of Agriculture to permit a purchaser to return to the Government a prescribed volume of timber of certain timber sale contracts upon paying a buy-out price. The Act ratifies the 1983 extension program and allows a purchaser to buy out a sale that was extended under the 1983 extension program. However, the act prohibits the Forest Service from requiring as a condition of extension additional contract provisions for calculating damages in the event of subsequent default of sales extended under that program.

The Act also affirms the 1983 prohibition of any further extensions of time for performance of sales extended under the extension program. However, contract term adjustments under existing terms of a timber sale contract are still permissible.

On January 4, 1985, at 50 FR 458 the Forest Service published a notice of interim policy for modifying the 1983 Forest Service timber sale extension policy to accommodate the effects of the Federal Timber Contract Payment Modification Act.

Briefly, the interim policy provided that:

1. The Forest Service will retain in, or restore to, contracts extended under the 1983 extension program the original timber sale contract provisions for calculating default damages.

2. Any contract term adjustments earned on a sale to be extended under the 1983 program will be effective at the completion of extension under the multi-sale extension program.

3. Purchasers can delete bought-out sales from their multi-sale extension plans within 60 days after the sale is bought out. Purchasers will have to modify the minimum harvest level of their multi-sale extension plans to conform with the 1983 extension policy.

4. Sales cannot be added to the harvest schedule of a multi-sale extension plan except as provided under the limited situations currently allowed (Forest Service Manual 2433.12)

This final policy will be implemented through amendment of Title 2400 of the Forest Service Manual, which is the primary source of administrative direction to Forest Service personnel and through the regulation governing the buy out of contracts at 36 CFR Part 223 Subpart E.

Public Comment on Interim Policy

Forty respondents commented on the interim policy. Two-thirds of the respondents are purchasers of National Forest timber. Comments were received from the public, Forest Service employees, and timber trade associations. In addition to addressing the elements of the interim policy, respondents also suggested additional items for the final policy. They stressed the need to know the final extension policy as soon as possible in order to make informed decisions about which sales to buy out.

Comments received on the four elements of the interim policy are discussed in the order they appeared in the interim policy.

1. *Default Damages.* Respondents had little to say about this element because the Federal Timber Contract Payment Modification Act (Act) prohibits the inclusion of additional provisions for calculating damages for default. Therefore,the final policy retains this provision as it appeared in the interim policy.

2. *Contract Term Adjustment.* Several respondents objected to the proposed method of handling contract term adjustments earned prior to extensions

under the multi-sale extension program. These respondents said that, in such situations, the contract's termination date should be adjusted before the extension, not afterwards. They also believed this approach is counter to current contract administration, and they cited possible adverse effects of the delay upon such factors as increased contract rates. The final policy contains a modification to reflect this concern. In the event the extension under the multi-sale extension program is at rates higher than the contract rates in effect immediately prior to the extension, and if the purchaser qualifies for a contract term adjustment before such an extension, the higher rates will not be applicable for a period equal to the amount of time earned as a contract term adjustment.

3. *Deletion of Bought Out Sales.* Almost half the respondents disagreed with this requirement of the interim policy that bought out contracts be removed from the multi-sale extension plans. They stated that purchasers who bought out sales included in multi-sale extension plans should get harvest schedule credit for completion of those contracts.

The multi-sale extension plan is a planning document to attain proportionate harvest of timber sales held by a purchaser. Timber sale contracts that are extended under the 1983 program are modified to extend the contract period, to establish a removal schedule, and to adjust the payment provisions. Once a contract is bought out, the purchaser no longer has the obligation to comply with the contract's removal schedule. Therefore, deletion of a bought out sale from the multi-sale extension plan accurately reflects the contract buy out action. Accordingly, this provision of the interim policy is retained in the final policy.

The interim policy also provided that when a bought out contract is deleted from a multi-sale extension plan, the plan has to be further modified to achieve a scheduled proportionate harvest of the remaining sales.

Many respondents were concerned about this provision, because they will need time to buy out some of their sales and to plan operations on the contracts remaining in their multi-sale extension plan. These respondents indicated that until their buy out is approved, they will not know how best to modify their minimum harvest schedule level on the remaining sales covered under their extension plans.

The final policy does not require a purchaser to modify the minimum harvest schedule level until after its application for contract buy out is approved. Within 45 days of receipt of Forest Service approval of its application for contract buy out (36 CFR 223.177(g)), a purchaser must submit a modification to the multi-sale extension plan that deletes those sales in the harvest schedule that were approved for buy out and that provides for proportionate harvest of the sales remaining in the harvest schedule. This conforms with the 1983 extension policy which was ratified by the Federal Timber Contract Payment Modification Act.

4. *Addition of sales.* Approximately half of the respondents commented on the provision that prohibits broadening current instructions to allow the addition of sales to multi-sale extension plans. One respondent endorsed the proposal. Others thought that the Act had made a significant change in the multi-sale extension program. They described the importance many of them had placed upon the new timber sale default provision. A number of purchasers had not requested contract extensions of some contracts under the program, because they did not want the new default provision included in those sales. They would have included those sales in their plan had they known that there would not be a change in the original default provision.

The final policy allows purchasers who, on October 16, 1984, held approved, complete multi-sale extension plans that meet the standards established in the published policy implementing that program (48 FR 54812), a period of time to add qualifying contracts to those plans. Purchasers must modify the existing plan's minimum harvest schedule level when such additions are made.

5. *Other Concerns.* Several respondents discussed two topics that were not included in the interim policy.

Several timber purchasers pointed out that their major 1985 operations would be directed to completing conditionally returned sales to logical stopping points. They suggested that the 1985 multi-sale extension plan harvest obligations be deferred a year to expedite the buyout process. This suggestion was not adopted. A year's deferral of the 1985 contractual harvest obligations would not conform with the original criteria for approving extension plans including proportionate harvest of the extended sales. Moreover, many of the sales to be conditionally returned under the timber buyout procedures are already in multi-sale extension plan harvest schedules. Present multi-sale extension plan policy allows purchasers to shift harvest for a given year between sales in the harvest schedule. This type of schedule flexibility will meet the concerns of many purchasers who want to use 1985 to work on their conditionally returned sales.

Another group of respondents who hold sales that were extended prior to the 1983 program requested an opportunity to receive an extension under the multi-sale extension program prior to the expiration of a previous extension. They would like to change to conditions permitted under the multi-sale extension program rather than wait for the expiration of extension requirements now in effect. A similar opportunity was offered in 1983 when the multi-sale extension program was initiated.

This request was adopted. There are advantages to the public and timber purchasers in following the precedent set in 1983. Under the final policy a purchaser may request an early extension under the multi-sale extension program of a sale previously extended under another policy within 45 days of the date the Regional Forester notifies the purchaser of the approval of its application for contract buy out. If a purchaser does not file an application for contract buy out, any request for such an early extension must be made within 55 days after this notice of the final policy is published in the **Federal Register.**

Modified Timber Sale Extension Policy

After full consideration of the public comment, the Forest Service has adopted the following final policy on modifying multi-sale extension plans to accommodate the buy out of contracts under the Federal Timber Contract Payment Modification Act.

1. Existing timber sale contract provisions for calculating default damages shall be retained in contracts to be extended under the 1983 program. Any contracts that have already been extended under the 1983 program and that were revised to include the new default damage provision as required in the 1983 policy will now be amended to restore the former default damages provision.

2. The Forest Service will extend eligible contracts from the date they would have terminated without taking into account any contract term adjustment to which the purchaser has thereafter become entitled. Any such contract term adjustment shall be

added, along with any other contract term adjustment to which the purchaser becomes entitled during the extension, to the contract termination date otherwise established by extension. In the event the extention under the multi-sale extension program is at rates higher than the contract rates in effect immediately prior to the extension, and if the purchaser qualifies for a contract term adjustment before such extension, the higher rates will not be applicable for a period equal to the amount of earned contract term adjustment.

3. Within 45 days of a purchaser's receipt of Forest Service approval of an application for contract buy out under the Federal Timber Contract Payment Modification Act, the purchaser must submit a modification of the multi-sale extension plan to remove contracts to be bought out from a multi-sale extension plan harvest schedule. The purchaser must also modify the minimum harvest schedule level of that plan at that time to provide for proportionate harvest of the sales remaining in the harvest schedule. Failure to request and agree to a multi-sale extension plan revision in accordance with this policy and 36 CFR 223.177(g), and to agree to the timber sale contract modifications necessary to implement the plan revision shall make a purchaser ineligible for any additional contract extensions under the multi-sale extension program.

4. A purchaser who on October 16, 1984, held an approved, complete multi-sale extension plan that meets the standards established in the published policy implementing that program (48 FR 54812) may add eligible sales to the harvest schedule of its plan. A purchaser may request such an addition within 45 days after receipt of the Regional Forester's approval of its application for contract by out. If a purchaser does not submit an application for contract buy out. If a purchaser does not submit an application for contract buy out, a request for any such addition to the harvest schedule must be made within 55 days after the publication of this policy in the **Federal Register.** If a purchaser wants to add a sale to an existing harvest schedule, the minimum harvest schedule level of the plan must be modified to ensure proportionate harvest.

5. A sale previously extended under a program other than the 1983 program that is eligible for contract extension under the multi-sale extension program may receive an early extension under the 1983 program. A purchaser may request an extension under the multi-sale extension program prior to expiration of a previous extension within 45 days after receipt of the Regional Forester's approval of its application for contract buy out. If a purchaser does not file an application for contract buy out, any request for such an early extension shall be made within 55 days after the publication of this policy in the **Federal Register.** If a purchaser wants an early extension of a sale previously extended under a policy other than the 1983 extension program, the minimum harvest schedule level of the plan must also be modified to ensure proportionate harvest.

An early extension will be effective when the contract is modified to include the early extension and the minimum harvest schedule level has been modified to correspond to the early extension.

This policy is a procedural link between the timber sale extension policy announced December 7, 1983, (48 FR 54812) and the rule implementing the buy out provisions of the Federal Timber Contract Payment Modification Act (36 CFR 223.170–223.182). An environmental assessment that discusses timber sale contract relief was prepared in 1983. The decision to adopt the policy of extending certain National Forest timber sales and a finding of no significant impact was announced December 7, 1983 (48 FR 54852). An environmental assessment, and a finding of no significant impact of the rules and policies implementing the Federal Timber Contract Payment Modification Act was prepared and is available for public review during regular business hours in Director's Office, Timber Management Staff, South Agriculture Building, Room 3207, 12th and Independence Ave., SW., Washington, DC, and in the Director's Office of the Regional Timber Management Staffs.

This policy will be incorporated in Chapter 2430 of the Forest Service Manual and will be effective August 19, 1985.

This final policy has substantial support in the agency record. It has been determined that this policy will have little or no effect, individually or cumulatively, on the quality of the human environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act.

Date: July 24, 1985.

F. Dale Robertson,

Associate Chief.

[FR Doc. 85–18729 Filed 8–6–85; 8:45 am]

BILLING CODE 3410–11–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OOP–300128A; FRL–2875–3]

Alpha-(P-Nonylphenyl) Omega-Hydroxypoly(Oxyethylene) Mixture of Dihydrogen Phosphate and Monohydrogen Phosphate Esters and the Corresponding Salts; Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule expands the expemption from the requirement of a tolerance for *alpha*-(*p*-nonylphenyl)-omega-hydroxypoly (oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters when use as inert ingredient surfactants, related adjuvants of surfactants in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. This regulation was requested by DeSoto, Inc.

EFFECTIVE DATE: Effective on August 7, 1985.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703–557–7700.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** on May 15, 1985 (50 FR 20235), which announced that DeSoto, Inc., Harahan, LA 70138, had requested that 40 CFR 180.1001(c) be amended by expanding the requirement of a tolerance for *alpha*-(*p*-nonylphenyl)-omega-hydroxypoly-(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters when used as inert ingredient surfactants, related adjuvants of surfactants in pesticide formulations. The amendment expands the poly(oxyethylene) content from 4–14

moles to 4–14 moles or 30 moles. A separate entry is not necessary to reflect this change.

Inert ingredient are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carageenan and modified cellulose; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

In the proposed rule, EPA stated the basis for a determination that when used in accordance with good agricultural practices, these ingredients are useful and do not pose a hazard to humans or the environment.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption from the exemption from the requirement of a tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 24, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.1001(c) is amended by revising the entry *alpha-(p-nonylphenyl)-omega-hydroxypoly(oxyethylene)* mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding salts, to read as follows:

§ 180.001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * *		
Alpha-(p-Nonylphenyl)-omega-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4–14 moles or 30 moles.		Surfactants, related adjuvants of surfactants.
* * * * *		

* * * * *

[FR Doc. 85–18593 Filed 8–6–85; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP OF2423/R769; FRL–2875–4]

Pesticides in or on Raw Agricultural Commodities; Chlorpyrifos-Methyl; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Correction.

SUMMARY: This document corrects a rule on chlorpyrifos-methyl from which an entry for fat, meat, and meat byproducts of poultry was inadvertently omitted.

FOR FURTHER INFORMATION CONTRACT:
Jay Ellenberger, Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.
Office location and telephone number: Rm: 205, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2386).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 27, 1985 (50 FR 26683) , EPA issued a final rule adding new § 180.419 *Chlorpyrifos-methyl* (40 CFR 180.419). As specified in the preamble, Dow Chemical Co. had petitioned for, among others, the commodites fat, meat, and meat byproducts of poultry at 0.5 part per million. These entries were inadvertently omitted form § 189.419. That omission is being corrected.

(21 U.S.C. 346a)

Dated: July 25, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, in FR Doc. 85–15643; published at 50 FR 26683, June 27, 1985, § 180.419 is corrected by adding and alphabetically inserting the following entries, to read as follows:

§ 180.419 Chlorpyrifos-methyl.

* * * * *

Commodity	Parts per million
* * * * *	
Poultry, fat	0.5
Poultry, meat	.5
Poultry, mbyp	.5
* * * * *	

[FR Doc. 85–18592 Filed 8–6–85; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[OPP–300129A; FRL–2875–7]

Triethylene Glycol Diacetate; Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts triethylene glycol diacetate from the requirement of a tolerance when used as an inert ingredient solvent in pesticide formulations applied to beef cattle only. This regulation was requested by the Stauffer Chemical Co.

EFFECTIVE DATE: Effective on August 7, 1985.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:
By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.
Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703–557–7700.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of May 15, 1985 (50 FR 20237), which announced that the Stauffer Chemical Co., Richmond, CA 94804, had requested that 40 CFR 180.1001(e) be amended by establishing an exemption from the requirement of a tolerance for triethylene glycol diacetate when used as an inert ingredient solvent in pesticide formulations applied to beef cattle only.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carageenan and modified cellulose; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

In the proposed rule, EPA stated the basis for a determination that when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption from the requirement of a tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register** file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 24, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.1001(e) is amended by adding and alphabetically inserting the inert ingredient as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
* *	* *	*
Triethylene glycol diacetate (CAS Reg. No. 111-21-7).	For use on beef cattle only.	Solvent.
* *	* *	*

[FR Doc. 85-18598 Filed 8-6-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

48 CFR Part 1033

Protests, Disputes, and Appeals

AGENCY: Office of the Secretary, Treasury.

ACTION: Final rule.

SUMMARY: This rule explains the process for handling disputes and appeals arising between the Department of the Treasury and contractors.

EFFECTIVE DATE: August 1, 1985.

FOR FURTHER INFORMATION CONTACT: Thomas P. O'Malley, Director, Office of Procurement, or Robert E. Lloyd, Procurement Analyst, 1500 Pennsylvania Ave., N.W. Washington, D.C. 20220, telephone (202) 566-2586.

SUPPLEMENTARY INFORMATION: This document changes, without substantive modification, the citations of the text previously codified at 48 CFR 1033.070 through 1033.075 to 48 CFR 1033.270.

Background

Under FAR sections 1.301 and 1.303 each agency is to codify under the assigned chapter in Title 48, Code of Federal Regulations, any agency acquisition regulation that contains policies or procedures that govern the relationship between the agency and its contractors.

As explained herein, this rule merely recodifies material currently at 48 CFR Part 1033.070 through 1033.075 into 48 CFR 1033.270. The former citation refers to the rules of the General Services Administration's Board of Contract Appeals (GSBCA) pertaining to disputes and appeals published at 48 CFR Part 533; the new citation refers to such rules of the GSBCA now published at 48 CFR Chapter 5, Appendix B. Although some internal operating procedures have been removed from these published regulations and minor technical and stylistic changes have been made to the Treasury rule, no substantive modifications have been made. For these reasons, the Department of the Treasury has determined that notice and public procedures and a delayed effective date, normally required by 5 U.S.C. 553 (b) and (d), respectively, are unnecessary with respect to this rule.

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule.

The Department of the Treasury certifies that this rule will not have a significant economic impact on a substantial number of small entities.

The revisions are technical in nature and do not have substantive effect. Accordingly, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are not applicable and no regulatory flexibility analysis is required.

List of Subjects in 48 CFR Part 1033

Government procurement, Protests, disputes and appeals.

Accordingly, 48 CFR Part 1033 is revised to read as follows:

PART 1033—PROTESTS, DISPUTES, AND APPEALS

Subpart 1033.2—Appeals

§ 1033.270 Treasury contract appeals.

The General Services Administration Board of Contract Appeals has been designated to serve as the authorized representative of the Secretary of the Treasury in hearing, considering, and determining all appeals of decisions of contracting officers filed by contractors pursuant to Subpart 33.2 of the FAR (other than contracts of the Comptroller of the Currency). Where "agency Board of Contract Appeal" appears in FAR Subpart 33.2 this shall be deemed to mean the General Services Administration Board of Contract Appeals. Appeals of contracting officer

decisions under FAR Subpart 33.2 shall be governed by the Rules of the General Services Administration Board of Contract Appeals (48 CFR Chapter 5, Appendix B).

(41 U.S.C. 418b (a) and (b), as delegated by Department of the Treasury Orders 101-30 and 101-3.)

Dated: August 1, 1985.

Thomas P. O'Malley,

Director, Office of Procurement.

[FR Doc. 85-18682 Filed 8-6-85; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 31012-199]

Atlantic Tuna Fisheries

AGENCY: National Marine Fisheries Service, (NOAA), Commerce.

ACTION: Notice of closure.

SUMMARY: NOAA issues this notice to close the fishery for giant Atlantic bluefin tuna conducted by vessels permitted in the harpoon boat category in the regulatory area. Closure of this fishery is necessary because the adjusted annual catch quota of 75 short tons (st) will be attained by the effective date. The intent of this action is to prevent exceeding the annual quota for this segment of the fishery and thereby maintain the U.S. obligations under the International Commission for the Conservation of Atlantic Tunas.

EFFECTIVE DATE: 0001 hours Eastern Daylight Time (EDT) August 5, 1985, through 2400 hours EDT December 31, 1985.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617-281-3600, ext. 325, or David S. Crestin, 617-281-3600, ext. 253.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971-971h) regulating the take of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction were published in the **Federal Register** on June 17, 1983 (48 FR 27745).

Section 285.22(b) of the regulations provides for an annual quota of 60 st of giant Atlantic bluefin tuna to be taken by vessels permitted in the harpoon boat category in the regulatory area. This quota was subsequently increased to 75 st effective July 29, 1985 (50 FR 30853, published on July 30, 1985). The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is required under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator, further, is required under § 285.20(b)(1) to prohibit fishing for, or retention of, Atlantic bluefin tuna by the type of vessels subject to the quotas. The Assistant Administrator has determined, based on the reported catch of giant Atlantic bluefin tuna of 70 st and the recent catch rate, that the annual quota of giant Atlantic bluefin tuna allocated to vessels permitted in the harpoon boat category will be attained by the effective date. Fishing for and retention of any Atlantic bluefin tuna by these vessels must cease at 0001 hours EDT on August 5, 1985.

Notice of this action has been mailed to all Atlantic bluefin tuna dealers and vessel owners holding a valid vessel permit for this fishery.

Other Matters

This action is taken under the authority of 50 CFR Part 285, and is taken in compliance with Executive Order 12291.

(16 U.S.C. 971 *et seq.*)

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: August 2, 1985.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 85-18721 Filed 8-2-85; 4:08 pm]

BILLING CODE 3510-22-M

50 CFR Part 661

[Docket No. 50458-5048]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS) NOAA, Commerce.

ACTION: Final rule; technical amendment.

SUMMARY: In this document, NOAA clarifies the chinook quotas which govern the 1985 commercial and recreational ocean salmon fisheries north of Cape Falcon, Oregon. The action is taken to protect returning Columbia River chinook and to assure that the ocean catch does not exceed the limits established by the States of Oregon and Washington, NMFS, and the four Columbia River Indian treaty tribes in court-ordered agreements issued in *U.S.* v. *Oregon, U.S.* v. *Washington,* and *Yakima* v. *Baldrige.* Its intended effect is to protect Columbia River chinook salmon stocks.

EFFECTIVE DATE: This action will be effective from 12:01 a.m. Pacific Daylight Time (PDT) on August 2, 1985, until modified, superseded, or rescinded. Comments will be accepted until August 19, 1985.

ADDRESS: Comments on this action may be submitted to the Director, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Director, Northwest Region, NMFS), 206-526-6150; or Joseph C. Greenley (Executive Director, Pacific Fishery Management Council), 503-221-6352.

SUPPLEMENTARY INFORMATION: Regulations implementing the Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California (FMP) appear at 50 CFR Part 661. Regulations implementing a framework amendment to the FMP, which streamlined the process and established provisions for preseason and inseason adjustments to certain annual management measures, were published on October 31, 1984 (49 FR 43679). Measures to manage the 1985 ocean commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California were published on May 2, 1985 (50 FR 18672).

The Pacific Fishery Management Council (Council) at its July 10-11, 1985, meeting clarified its action of May 2 with respect to the overriding nature of the overall chinook quotas for the commercial and recreational fisheries north of Cape Falcon in 1985.

Troll chinook quotas north of Cape Falcon, Oregon, are designated in the 1985 management measures (Table 1, 50 FR 18672) by subareas and extracted below:

Area	Season	Chinook quota (number of fish)
U.S.-Canada Border to Cape Falcon, OR.	May 1 through earliest of: (1) Chinook quota, or, (2) May 31.	27,000
Sub-Areas:		
Cap Alava to Leadbetter Point.	July 15 through earliest of: (1) Coho quota, or; (2) Chinook quota, or; (3) July 31.	16,100
U.S.-Canada Border to Carroll Island.	August 3 through earliest of: (1) Coho quota, or; (2) August 31.	[5,100]*

Area	Season	Chinook quota (number of fish)
Leadbetter Point to Cape Falcon, OR.	August 21 through earliest of: (1) Coho quota, or; (2) Chinook quota.	2,700

The troll chinook quota of 5,100 fish for the subarea from the U.S.-Canada Border to Carroll Island was footnoted in the 1985 management measures as follows:

[c] "The 5,100 chinook listed here is not a quota. It is a guideline for the potential incidental harvest of chinook during this directed pink salmon fishery and is not transferable to any other chinook quota."

The 5,100 chinook harvest guideline for the August pink salmon troll fishery between the U.S.-Canada border and Carroll Island was composed of an estimated 960 adult chinook which would be landed and an estimated additional hooking mortality of 4,140 immature chinook which would be captured and released. This notice clarifies the Council's intent for the 5,100 chinook harvest guideline to reflect the overall fishery impact, rather than only the actual chinook harvest quota for this commercial fishery which is 960 fish. The Council further intended that the total landed chinook harvest quota for all non-Indian commercial fisheries north of Cape Falcon be 46,760 fish, not to exceed a fishery impact of 50,900 chinook. This latter figure includes the hooking mortality of 4,140 immature chinook in the August pink salmon fishery.

Recreational chinook quotas north of Cape Falcon are designated in the 1985 management measures (Table 2, 50 FR 18672) by subareas as follows:

Area	Season	Chinook quota (number of fish)
U.S.-Canada Border to Queets River.	June 30 through earliest of September 19 or date of reaching quota; Sunday through Thursday only.	1,700
Queets River to Leadbetter Point.	June 30 through earliest of September 19 or date of reaching quota; Sunday through Thursday only.	23,300
Leadbetter Point to Cape Falcon.	June 30 through earliest of September 19 or date of reaching quotas; Sunday through Thursday only.	12,100

The sum of the subarea chinook quotas for the recreational fisheries north of Cape Falcon is 37,000 fish. The Council intended that the harvest by the recreational fisheries north of Cape Falcon not exceed 37,100 chinook in 1985, that the total harvest of chinook by both the non-Indian commercial and recreational fisheries not exceed 83,860 fish (46,760 plus 37,100), and that the total non-Indian fishery impact not exceed 88,000 chinook, including hooking mortality in the August pink salmon fishery.

The Secretary of Commerce (Secretary) concurs with the Council's recommendations for clarification of the above total numbers for the chinook harvest north of Cape Falcon. Therefore, the total landed chinook harvest quota for all non-Indian commercial fisheries north of Cape Falcon is 46,760 chinook, not to exceed a fishery impact of 50,900 chinook. The total chinook quota for the recreational fisheries north of Cape Falcon is 37,100 chinook. The total landed harvest of chinook by both the non-Indian commercial and recreational fisheries will not exceed 83,860 fish (46,760 plus 37,100) with a total non-Indian fishery impact not to exceed 88,000 chinook, including the 4,140 chinook hooking mortality allowance for the August pink salmon fishery.

This action is necessary to protect returning Columbia River chinook salmon and to assure that the ocean catch does not exceed limits established by the States of Oregon and Washington, the National Marine Fisheries Service, and the four Columbia River Indian treaty tribes in a court-ordered agreement entitled "1985 Ocean and In-River Management for Upper Columbia River Fall Chinook and Coho Salmon," approved by the United States District Court on May 22, 1985.

Classification

The Director, Northwest Region, NMFS, has determined that this rule is necessary for the conservation and management of the ocean salmon fishery off Washington, Oregon, and California and that it is consistent with the FMP, the Magnuson Fishery Conservation and Management Act, and other applicable law. He also has determined that continuing the regulations now in force would violate a court-ordered agreement and could result in underescapement of Columbia River chinook. It is therefore necessary to promulgate this technical amendment immediately.

This action is taken under the authority of 50 CFR Part 661, is in compliance with Executive Order 12291, and is covered by the regulatory flexibility analysis (RFA) and supplemental environmental impact statement (SEIS) prepared for the final framework amendment for managing the ocean salmon fisheries off the coasts of Washington, Oregon, and California commencing in 1985. This action imposes no information collection requirement under the Paperwork Reduction Act.

Because of the need to comply with an order of a Federal court, and because of the depressed status of the chinook stocks north of Cape Falcon, Oregon, and the need to control total harvest of these stocks in the ocean by on-going fisheries, the Secretary has determined, for good cause, that this notice must be issued without affording public comment prior to its effective date. Comments will be accepted until August 19, 1985.

Authority: 16 U.S.C. 1801 *et seq.*

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

Dated: August 2, 1985.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

PART 661—[AMENDED]

For the reasons set out in the preamble, the notice of 1985 management measures published at 50 FR 18672 (May 2, 1985) is revised to read as follows:

1. In "Table 1. Troll Management Measures for 1985 Ocean Salmon Fisheries," (Table 1), the bracketed figure "[5,100]" under the third column titled "chinook quota" and in the third line titled "Carroll Island to United States-Canada Border" is removed and the following is inserted: "960".

2. In Table 1, footnote c is removed and footnote d is redesignated as footnote c, and a new footnote d is added, flagged in the table heading at Quota, Chinook, to read as follows:

[d] "The commercial troll fishery from Cape Falcon, Oregon, to the U.S.-Canada border will be closed when either the total chinook quota of 46,760 fish or the total fishery chinook impact limit of 50,900 fish is predicted to have been caught."

3. In "Table 2. Recreational Management Measures Approved for 1985 Ocean Salmon Fisheries," footnote e is added, flagged in the table heading at Quota, Chinook, to read as follows:

[e] "The recreational chinook fishery from Cape Falcon, Oregon, to the U.S.-Canada border will be closed when the total chinook quota of 37,100 fish is predicted to have been caught."

[FR Doc. 85-18724 Filed 8-2-85; 4:34 pm]

BILLING CODE 3510-22-M

50 CFR Part 661

[Docket No. 50717-5123]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of adjustment to the recreational fishing week.

SUMMARY: The Secretary of Commerce (Secretary) announces a prohibition on recreational salmon fishing on Mondays and Tuesdays, from 0001 hours PDT Monday until 0001 hours PDT Wednesday, in the fishery conservation zone (FCZ) from Point Delgada, California, to the California/Oregon border. This restriction is necessary to protect depressed Klamath River fall chinook salmon.

EFFECTIVE DATE: 0001 hours Pacific Daylight Time (PDT) August 2, 1985 until 0001 hours PDT on August 28, 1985.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Director, Northwest Region, NMFS), 206-526-6150; or E.C. Fullerton, (Director, Southwest Region, NMFS), 213-548-2575.

SUPPLEMENTARY INFORMATION: Management measures for the 1985 ocean salmon fisheries were developed according to the regulations which implement the framework amendment (49 FR 43679, Oct. 31, 1984) to the ocean salmon fishery management plan (FMP) and were published on May 2, 1985 (50 FR 18672). Inseason adjustment to fishing weeks was not one of the inseason adjustments provided for in the regulations implementing the framework amendment. However, emergency regulations appearing elsewhere in this issue authorize the Secretary to modify the number of allowable fishing days per week in the recreational salmon fishery by publishing a notice in the **Federal Register**. The Secretary hereby reduces the number of recreational fishing days allowed per week to lessen the impact of ocean recreational catches on the depressed run of fall chinook which will enter the Klamath River during 1985.

Fall chinook salmon stocks in the Klamath River system are far below their optimum level. Spawning escapement for the last four years has averaged 37,000 adults as compared to the long-term goal of 115,000 adult spawners. In 1983, the Pacific Fishery Management Council (Council) established a schedule for rebuilding the number of fall chinook escaping the ocean fisheries and entering the river. At the beginning of the 1985 season that rebuilding program was well behind schedule and, in order to make up for the deficit, the in-river runs for 1985 and 1986 would need to average 87,200 adults. A return to the river of 55,700 fall chinook was predicted for this year if no troll fishery were permitted from Point Delgada to Cape Blanco.

Given this situation, the Council recommended in April that the Secretary prohibit all commercial salmon fishing in the ocean between Point Delgada, California, and Cape Blanco, Oregon—the area where most Klamath River fall chinook are caught. The Council recognized that a total commercial closure would have adverse economic consequences on the communities in the region, but believed the need to reverse the trend of decreasing spawning escapement was sufficiently urgent to warrant such action. Representatives of the Hoopa Tribe, the Bureau of Indian Affairs, and the California Department of Fish and Game (CDF & G) assured the Council that the in-river harvest would be reduced to ensure that increased ocean escapement resulting from the closure would benefit the spawning escapement.

The Council recommended that the ocean recreational fishery be allowed to continue to avoid compounding the regional economic loss. Recreational fishermen were expected to take 20,800 salmon of which about 25 percent would be Klamath-origin chinook.

The recreational chinook catch in the Point Delgada to Cape Blanco area is estimated to be approaching 30,000 fish through July 7 with about half the season remaining, compared to the predicted 20,800 chinook for the entire year. Fishing effort by sport fishermen in northern California is three times that of 1984 and the success rate of 0.8 salmon per angler-day is nearly triple the expected rate. This has led to the substantial underestimate of the impact of this fishery on Klamath stocks. The increased success rate is likely due in part to the lack of competition by the commercial fleet not operating in the area. There is no new evidence which indicates that the preseason prediction of run size should be modified. Fishing effort has increased as a result of extensive publicity regarding high catch rates by anglers. Due to the dramatic increase in harvest, the ocean recreational catch of chinook must be curtailed to allow fish saved by the commercial closure to escape to the river as originally intended by the Council.

It is not yet possible to determine whether the fishing effort and catch rates in Oregon south of Cape Blanco exceed preseason estimates as in the case of the northern California sport fishery. The northern California recreational season began in mid-February, while the southern Oregon recreational season began on May 25, closed during the month of June, and began again on July 1. For this reason, only the area from Point Delgada, California, to the California/Oregon border is affected by this action. If recreational fishing in Oregon south of Cape Blanco proceeds in a similar pattern, additional restrictions will be considered in that area.

The CDF & G conducted a public hearing in Eureka, California, on July 17, 1985, in the area affected by this emergency action. After hearing testimony and receiving an analysis by the CDF & G, the California Fish and Game Commission determined that the best means of curtailing the ocean sport catch of salmon, while not causing further economic hardship to the region, is to prohibit recreational ocean salmon fishing on two days each week. This reduction was ordered under California's State fishing regulations to be effective July 19 through August 31. This Federal action is necessary to close the FCZ adjacent to the State's territorial sea for two days per week during the same period.

Secretarial Action

The Secretary announces that the salmon fishery management area in the fishery conservation zone off California between the Oregon-California border (42°00'00" North latitude) and Point Delgada, California (40°01'24" North latitude), is closed to recreational salmon fishing each week, from 0001 hours PDT Monday until 0001 hours PDT Wednesday, until 0001 hours PDT on August 28, 1985, at which time the seven-day recreational fishing week is restored.

Other Matters

This action is taken under to the emergency regulation published elsewhere in this issue and § 661.23, and is in compliance with Executive Order 12291.

(16 U.S.C. 1801 et seq.)

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

Dated: August 2, 1985.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 85-18723 Filed 8-2-85; 4:42 pm]

BILLING CODE 3510-22-M

50 CFR Part 661

[Docket No. 50717-5123]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency rule.

SUMMARY: The Secretary of Commerce issues emergency regulations to provide for inseason adjustment to the number of allowable fishing days per week in the ocean recreational salmon fishery for the areas between the U.S.-Canada border and the U.S.-Mexico Border. The regulations are necessary to add stability to the length of the fishing seasons while providing full opportunity for attainment of the quotas in the fishery. The regulations are intended to optimize the harvest of the salmon resource and further the interests of recreational fishermen and the recreational fishing industry and related businesses.

EFFECTIVE DATE: This emergency rule is effective at 0001 hours local time, August 2, 1985 until 2400 hours local time, October 31, 1985.

ADDRESS: Comments on this emergency rule may be submitted to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206-526-6150.

SUPPLEMENTARY INFORMATION: The regulations implementing the framework amendment to the Fishery Management Plan for the ocean salmon fisheries off the coasts of Washington, Oregon, and California (FMP) were published on October 31, 1984 (49 FR 43679). The framework amendment provides the mechanism for setting preseason and inseason adjustments to the regulations without annual amendments to the FMP. Preseason management measures for the 1985 ocean salmon fisheries were published on May 2, 1985 (50 FR 18672).

The preseason management measures specify that five days of fishing per week, Sunday through Thursday, are allowed in the ocean recreational salmon fishery between the U.S.-Canada border and Cape Falcon, Oregon, in an attempt to prolong the fishing season. Between Cape Falcon and Cape Blanco, Oregon, the shortened fishing week was rejected in favor of the option to fish every day of the week even if a shortened season would result.

The Salmon Plan Development Team (Team) of the Pacific Fishery Management Council (Council) estimated that the shortened fishing week north of Cape Falcon would reduce weekly fishing effort by approximately 20 percent, even assuming some redistribution of effort. Representatives of the Washington charterboat industry estimated that Saturday accounted for approximately 25 percent of their weekly fishing effort. Therefore, a fishing week of Sunday through Thursday was expected to prolong the fishing season by approximately 20 to 25 percent over a seven-day fishing week. To make up for the days of salmon fishing lost, the Washington charterboat industry representatives indicated their intent to promote recreational opportunities for alternative species such as groundfish.

The Council adopted the shortened fishing week between the U.S.-Canada border and Cape Falcon with the intent of being able to modify the fishing week during the season. The Council recognized that under the existing FMP regulations as amended no provision is made for inseason adjustment to the number of allowable fishing days per week. The Council requested by majority vote that emergency regulations be promulgated to allow the inseason adjustment to the fishing week coastwide based on evaluation of catch and effort rates to be conducted at the end of the third and sixth weeks of the fishery.

This is the first year that regulating the number of allowable fishing days per week has been attempted as a management tool to prolong the fishing season. By having the inseason flexibility to shorten the fishing week, to delay closing the season due to attainment of the quotas, or to lengthen the fishing week to provide additional opportunity to reach the quotas, the Council believed that management would be more effective as well as more responsive to the socioeconomic needs of recreational fishermen and the recreational fishing industry and related businesses.

Any adjustment to the number of allowable fishing days per week will be consistent with ocean escapement goals, conservation of the salmon resource, any adjudicated Indian fishing rights, and the allocation schedule in the framework amendment. It will be based on consideration of the following factors: (1) Predicted and actual sizes of salmon runs; (2) recreational quota for the area; (3) amounts of the recreational, commercial, and treaty Indian catch and fishing effort of each species in the area to date; (4) estimated average daily catch per fisherman; (5) predicted recreational fishing effort for the area to the end of the scheduled season; and (6) other factors as appropriate.

The preseason management measures also specify that the following inseason actions are available for use during the 1985 ocean recreational salmon fishery if the situation warrants: (1) Modification to coho quotas and seasons based on inseason reassessment of private hatchery contributions; (2) modifications to quotas and seasons based on inseason revisions to abundance estimates; (3) reduction in quotas and seasons due to unanticipated salmon catches in the territorial sea; (4) redistribution of quotas to achieve an overall quota; (5) boundary modifications to promote attainment of quotas; and (6) modification of recreational daily bag limits.

Section 305(e) of the Magnuson Fishery Conservation and Management Act (Magnuson Act) authorizes the Secretary to promulgate emergency regulations when a Council finds that an emergency exists involving a fishery under its jurisdiction. The Secretary has agreed with the Council's determination that an emergency exists because recreational fishing interests expressed their socioeconomic need for more stability in the length of the fishing seasons which is to be provided by an inseason management provision not authorized in the existing FMP regulations as amended.

In addition, the States of California, Oregon, and Washington support the need for this inseason flexibility and the necessity for providing stability to the coastal recreational communities. The States currently have the authority to change the number of fishing days per week on an emergency basis at any time during the season to meet the needs of the resource and the industry. Consistency between Federal and State regulations allows both sets of regulations to be enforced at dockside when the fish are landed. In order to maintain consistency and avoid enforcement problems, the Secretary must have a similar regulation in place so that the number of fishing days per week in the fishery conservation zone may be modified. Failure to issue this regulation will negate either Federal or State regulatory efforts whenever differing authorized fishing days per week are in effect.

This emergency rulemaking remains in effect for 90 days and may be extended for a second 90-day period.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant

Administrator), has determined that this rule is necessary to respond to management needs and is consistent with the Magnuson Act and other applicable law. He has determined that continuation of the regulations now in force without this provision would not allow timely management response to the needs of the ocean recreational salmon fishery and it is therefore necessary to promulgate this emergency rule immediately.

The Assistant Administrator finds that the reasons justifying promulgation of this rule on an emergency basis also make it impracticable to provide prior notice and opportunity for comment, or to delay for 30 days the effective date of these emergency regulations, under section 553(b) and (d) of the Administrative Procedure Act. The public had the opportunity to comment on the 1985 management measures during the process of their development, including the proposals leading to the Council's vote for this emergency rule. The public participated in the March and April meetings of the Council, Team, and Salmon Advisory Subpanel, and in public hearings held in late March and early April. The Council invited written public comments between the March and April Council meetings.

The Assistant Administrator has determined that the regulations implementing the FMP as amended are consistent to the maximum extent practicable with the approved coastal zone management programs of Washington, Oregon, and California. This determination was submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. This action is a minor extension to the final regulations and does not change that determination. Its application will have no impact on the salmon stocks, and its impact on the recreational industry and related coastal communities will be positive.

This emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that Order. This rule is being reported to the Director of the Office of Management and Budget, with an explanation of why it is not possible to follow the regular procedures of that order.

This action is a minor extension to the ocean salmon regulations and does not result in a significant change in the final supplemental environmental impact statement prepared for the regulations implementing the FMP as amended which concluded that there will be no significant adverse impact on the human environment. As such, the Assistant Administrator has determined that it is categorically excluded from the requirement to prepare an environmental document, as provided by NOAA Directive 02-10.

This emergency rule does not contain a request for collection of information for purposes of the Paperwork Reduction Act.

This emergency rule is exempt from the regular procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior public comment.

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Fishing, Indians.

Dated: August 2, 1985.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

PART 661—OCEAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

For the reasons set out in the preamble, 50 CFR Part 661 and its Appendix are amended to read as follows:

1. The authority citation for Part 661 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 661.20 [Amended]

2. In § 661.20, paragraphs (a) introductory text and (a)(2)(i) are amended by adding, after the word "seasons," the phrase "allowable fishing days per week."

3. In § 661.21, a new paragaph (b)(8) is added to read as follows:

§ 661.21 Inseason actions.

* * * * *

(b) * * *

(8) Modification to number of allowable days of recreational fishing per week between the U.S.-Canada border and the U.S.-Mexico border.

4. In the Appendix, Section III., a new paragraph G. is added to read as follows:

APPENDIX

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III. Inseason Changes to Management Measures

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G. *Allowable Recreational Fishing Days Per Week.* The Secretary may modify the number of allowable fishing days per week during the season by publishing a **Federal Register** notice. Any such modification will be based on consideration of the following factors and will be consistent with ocean escapement goals, conservation of the salmon resource, any adjudicated Indian fishing rights, and the ocean allocation scheme in the framework plan:

1. Predicted sizes of salmon runs.
2. Apparent actual sizes of salmon runs.
3. Recreational quota for the area.
4. Amount of the recreational, commercial, and treaty Indian catch of each species in the area to date.
5. Amount of the recreational, commercial, and treaty Indian fishing effort in the area to date.
6. Estimated average daily catch per fisherman.
7. Predicted recreational fishing effort for the area to the end of the scheduled season.
8. Other factors as appropriate.

[FR Doc. 85-18722 Filed 8-2-85; 4:39 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 50, No. 152
Wednesday, August 7, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Docket No. AO-144-A14-RO1]

Lemons Grown in California and Arizona; Recommended Decision and Opportunity to File Written Exceptions to Proposed Further Amendment of the Marketing Order and Proposed Marketing Agreement

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written exceptions on a proposed amendment of the lemon marketing order, and a proposed marketing agreement for lemons. The principal changes would: (a) Require volume regulations by prorate district; (b) require two-week prorate periods; (c) require a minimum 8 week period of open movement of lemon shipments during the June-September period each year; (d) exempt special purpose shipments of lemons, including shrink-wrapped lemons, from prorate regulations; (e) exempt shipments of premium quality lemons during specified periods and provide authority for the establishment of quality standards and inspection and certification procedures for such lemons; (f) provide for marketing incentive allotments; (g) authorize undershipments to be carried forward for two weeks or longer; (h) authorize generic advertising projects and allow handlers to request a refund of assessments for such project; (i) limit committee tenure to 3 consecutive two-year terms of office; (j) authorize mail balloting for independent members and stagger terms for all members; (k) change from August 1 to September 1, the beginning date of members' term of office and the fiscal year; (l) provide for a continuance referendum every six years; (m) and revise handler reporting requirements and establish recordkeeping requirements. The intent of the proposed changes is to improve the effectiveness of the program. The proposed marketing agreement, which is a companion agreement between the Secretary and handlers of the regulated commodity, would contain essentially the same terms and provisions as the current amended lemon marketing order, and as hereby proposed to be further amended.

DATE: Written exceptions to this recommended decision must be filed by September 6, 1985.

ADDRESS: Interested persons may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Four copies of all written exceptions should be submitted, and they will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing published in the January 13, 1983, issued of the **Federal Register** (48 FR 1508). Amended Notice of Hearing published in the Janaury 26, 1983, issued of the **Federal Register** (48 FR 3624). Notice of Opportunity to comment on Proposed Rulemaking published in the October 6, 1983, issued of the **Federal Register** (48 FR 45565). Notice of Reopened Hearing published in the December 13, 1983, issue of the **Federal Register** (48 FR 55472). Notice of an Additional Hearing Session published in the February 1, 1984, issued of the **Federal Register** (49 FR 4004). Extension of Time for Filing ofBriefs published in the July 13, 1984, issue of the **Federal Register** (49 FR 28566). and Further Extension of Time for filing Briefs published in the September 20, 1984, issue of the **Federal Register** (49 FR 36862).

This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code, and therefore is not subject to the requirements of Executive Order 12291.

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to the proposed further amendment of Marketing Order No. 910, hereinafter referred to as the "order", regulating the handling of lemons grown in California and Arizona, the proposed issuance of a marketing agreement regulating the handling of lemons grown in California and Arizona; and of the opportunity to file written exceptions thereto. Copies of this decision may be obtained from William J. Doyle.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *st seq.*), hereinafter referred to as the "act" and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR Part 900).

This proposed amendment and proposed marketing agreement were formulated on the record of public hearings held in Oak View, California, on February 14-18, 1983, Ventura, California, on January 10-16, 1984, Yuma, Arizona, on January 18-20, 1984, Bakersfield, California, on January 23-27, 1984, and again in Ventura, California, on February 13-28, 1984. The Notice of Hearing contained proposals submitted by the Lemon Administrative Committee, hereinafter referred to as the "committee", Perry L. Walker, N.J. Riebe, and the Fruit and Vegetable Division, AMS, USDA. The Reopened Notice of Hearing contained proposals submitted by Harry M. Snyder for Consumers Union of the United States, Inc., R.W. Kaighn, Dennis N. Torigian, Frank M. Lick, Joseph E. Coberly, Jr., Stephen F. Moore, the Lemon Administrative Committee, the Capital Legal Foundation on behalf of Sequoia Orange Company, Inc. and Exeter Orange Company, Inc., Perry L. Walker, Robert E. Herrick, Pure Gold, Inc., Tom C. Cole, David C. Roddick, Ehud Ariav, and Joseph D. Park.

The decision includes a number of recommendations which would provide flexibilities intended to lessen regulatory controls over the California-Arizona lemon industry. Such flexibilities are deemed to be initial steps in a continuing process whereby the industry will rely more on natural market forces to correct lemon marketing problems and less on regulatory actions. Such flexibilities should contribute in a substantial way to addressing both short- and long-run marketing problems.

Material Issues

The material issues of record are as follows:

(1) Terminate the lemon marketing order or eliminate the prorate provisions of the order.

(2) Redefine the production area to exclude Districts 1 and 3.

(3) Require establishment of lemon volume regulation by prorate district.

(4) Require prorate periods of two weeks in duration or longer periods as may be recommended by the committee.

(5) Require a minimum of eight weeks of open movement of lemon shipments during the June–September period each year.

(6) Exempt special purpose shipments of lemons, including shrink-wrapped lemons, from prorate regulations in limited amounts.

(7) Exempt shipments of premium quality lemons during specified periods and provide for the establishment of quality standards and inspection and certification procedures for such lemons.

(8) Provide for marketing incentive allotments.

(9) Authorize undershipments to be carried forward two weeks or longer.

(10) Revise procedures relating to open certification of lemons on-tree.

(11) Include export shipments to Japan under prorate regulation.

(12) Authorize the committee to conduct marketing research and promotion projects, including paid advertising, and allow for handlers to request refunds of assessments for such projects.

(13) Limit committee members' tenure to 3 consecutive two-year terms of office.

(14) Provide for staggered terms of office of committee members.

(15) Authorize mail balloting for nominations of independent members of the committee.

(16) Provide for additional alternate handler members on the committee.

(17) Redesignate the "non-industry member" on the committee as the "public member" and expand such member's role.

(18) Change the beginning and ending dates of members' terms of office from a two-year period beginning on August 1 to a two-year period beginning on September 1.

(19) Revise the size and composition of the committee and make related changes in nomination, quorum, and voting requirement provisions.

(20) Provide for consumer affairs advisors to the committee.

(21) Authorize committee member compensation for attending meetings to increase to a maximum of $100 per meeting.

(22) Authorize the committee to assess a late payment charge on overdue assessments.

(23) Revise provisions relative to allotment loans.

(24) Revise district boundaries to exclude Monterey County, California, from District 1 and include such county in District 2.

(25) Provide for a continuance referendum to be held every six years.

(26) Revise handler reporting requirements and establish recordkeeping requirements.

(27) Revise definitions for fiscal year and carload.

(28) Provide for a handler marketing agreement.

(29) Make conforming changes.

Small Businesses

As stated in the notice of hearing, interested person were invited to present evidence during the hearing on the probable economic impact on small growers and handlers of proposed amendments to the California-Arizona lemon order. Interested persons are again invited to comment on such economic impacts with respect to the material issues discussed in this recommended decision. Such comments will be considered prior to a final decision to be issued by the Secretary.

The purpose of the Regulatory Flexibility Act (Pub. L. 96–354)(RFA) is to fit regulatory action to the scale of business subject to such action in order that small businesses will not be unduly or disproportionately burdened. The Agricultural Marketing Agreement Act of 1937, as amended (AMAA), requires the application of uniform rules to regulated handlers. Under the allotment program for lemons the act requires the establishment of uniform rules which apportion such allotments equitably among all regulated handlers. Marketing orders and rules proposed thereunder are unique in that they are normally brought about through group action of essentially small entities for their own benefit. Thus, there should be no conflict between the goals of the RFA and the AMAA with respect to small business entities. This is especially true in this proceeding since handlers covered under M.O. 910 are predominantly small businesses and the order reflects the views and consensus of such small businesses.

Lemons produced in California and Arizona account for virtually all of the lemons produced in the United States. A small quantity of lemons is grown in Florida. Lemons are sold in essentially three markets: fresh domestic (including Canada); fresh export; and processing. In 1982–83, the percentage utilization by market was 28 percent fresh domestic, 18 percent fresh export and 54 percent processed. The percentage of the crop utilized in processing had been trending upward through the 1982–83 season, while fresh domestic use of lemons has been relatively constant in the last several years.

The California-Arizona lemon industry is characterized by a relatively large number of small entities. There were approximately 2,079 farms growing lemons in 1978 compared to about 8,813 farms in 1954. The average farm size was about 35 acres in 1978 compared to an average size of 8 acres in 1954. Total lemon acreage reached a high of 91,316 acres in 1975–76 and has been declining since that time. Total acreage in 1984–85 is estimated at 67,500 acres. Based on the economics of the lemon industry and on evidence on the record a small grower can be defined as one whose total annual return is less than one million dollars. Therefore, virtually all California-Arizona lemon growers are small growers.

There were approximately 51 handlers of California-Arizona lemons in the 1982–83 season. During that year, the average lemon handler handled slightly more than 266 carloads in fresh domestic channels. During 1982–83 there were 19 marketing organizations in the industry, seven of which marketed in excess of 95 percent of the domestic lemons.

A brief filed on behalf of the U.S. Small Business Administration (SBA) argues that the RFA applies to these formal rulemaking proceedings and that the USDA is required to conduct an initial and final Regulatory Flexibility Analysis with respect to this proceeding.

Further, the SBA states that the regulatory flexibility analysis should include: (1) A statement of need for the regulation; (2) a description and estimate of the number of affected small entities; (3) a discussion of alternative proposals and; (4) answers to specific questions on prorate. The hearing record and this recommended decision contain a decription of the regulated industry; statement of need for proposed regulations or amendments to existing regulations; discussions of alternative proposals; and answers to specific questions on prorate and other issues. Therefore the analysis described by the SBA has been made an integral part of this formal rulemaking proceeding.

The SBA also proposed alternatives to prorate regulation which could benefit small businesses. Such alternatives are addressed within this recommended decision. As such, within the confines of the AMAA, such alternatives as

exemptions for small handlers, organic and shrink-wrapped lemons, and providing for generic advertising are proposed to be adopted. Other flexibilities not mentioned by the SBA are also proposed to be adopted. The cumulative effect of these recommended amendments should be beneficial and applicable across the entire industry. To the extent that such flexibilities are adopted, small businesses will be able to derive benefits from them.

While regulations issued under these orders impose some costs on affected handlers, and the number of such handlers may be substantial, the added burden on small entities, if present at all, is not significant.

Findings and Conclusions

The following findings and conclusions on the material issues are based on the record of the hearing: (1) The hearing record contains considerable testimony from both industry and nonindustry witnesses who supported proposals to eliminate or phase out the flow to market provisons of the order, i.e. prorate, or to terminate the order.

Such witnesses testified that prorate: contributes to chronic overproduction; slows the industry's response to changing technologies; causes subsidization of the products market; protects inefficient or marginal producers; causes increased capitalization of groves; may be a barrier to entry at the handler level; results in resource misallocation and subsequent social welfare losses; promotes undermarketing of lemons by limiting competition and; attracts passive investors into the industry. Several other arguments were raised with respect to possible deleterious effects of prorate but these were generally variations of the aforementioned points. Both industry and non-industry witnesses argued in favor of continuation of the order and/or the prorate provisions. These witnesses argued that prorate: reduces risks to producers; results in stability in the fresh domestic market by providing stable, balanced supplies and reasonably stable prices; contributes to year round availability of lemons which benefits the fresh domestic, export and products markets and the consumer; provides stability in the farm labor force; provides stability in the transportation sector and reduces transportation costs by providing regularity of shipments; builds confidence in the agricultural financing sector, allowing growers, especially small growers, to obtain necessary financial resources and; provides the industry with the only equitable method of dealing with significant overproduction.

The current overproduction in the lemon industry was credited to the effects of prorate by some witnesses. However, growers, handlers, economists and other witnesses identified several contributing factors which appear to have had a more profound effect than prorate. These factors include tax laws which encouraged investment in lemon acreage as a means to shelter other income, losses of European and other export markets for lemons due to increased foreign production of lemons, increased freight rates, the strength of the U.S. dollar, attractive prices for lemon products in the 1970's, and consistent back to back years of heavy production unrestricted by a natural event such as a damaging freeze. Several witnesses claimed that prorate prevents or slows down the industry's reaction to such overproduction.

The Department recognizes that testimony for and against prorate contains many valid points. However, upon careful analysis of the facts, it is reasonable to conclude that changes in tax laws and the fact that lemons are a long-term rather than a single season investment for growers have contributed to overproduction of lemons to a greater extent than prorate. In addition, lemon acreage has declined and this trend is expected to continue. Evidence supports the conclusion that if judiciously applied prorate can have stabilizing and risk-reducing effects which can have a positive impact on efficiency. Therefore, considering all of the factors involved in the marketing of lemons under order No. 910, it is the opinion of the Department that the amendments recommended herein offer the best means of effectuating the intent and purposes of the act i.e., preventing the type of fluctuations in supplies and prices which tend to cause disorderly marketing conditions.

When considering termination of the order or the prorate provisions, one of the issues to be addressed is whether the order or such provisions obstruct or no longer tend to effectuate the declared policy of the act. Among some of the many factors to be considered in addressing this issue are the effects of such termination on the industry as it now exists with current levels of overproduction. Most witnesses felt that, before an equilibrium could be reached between supply and demand, there would be severe economic displacement of grower entities if prorate were discontinued or phased out at this time.

Short term effects would likely be: Drastically increased instability of price and supply; disruption of the farm labor sector; the likelihood of unreliable and more expensive transportation services; instability in both the export and products markets; and the forcing out of the industry of many growers, with the additional expectation that smaller growers with limited financial resources would be affected more than larger growers with more diversified or stronger financial positions. Long term effects were predicted to be a significant decrease in the number of growers, substantially reduced lemon acreage, and shifts in the regional distribution of production. However, growers would be expected to be earning normal rates of return on their lemon investment once an equilibrium was reached. While the long term effects of termination of the order or of prorate could have benefits, the anticipated short term effects, which would result in far reaching permanent changes in the industry, cannot be ignored.

The order with its prorate provisions was originally issued in 1941. At that time the industry was faced with burdensome supplies of lemons relative to demand. The institution of prorate regulations under the order provided a means of correlating supplies with demand and stabilizing the market. The orderly flow of lemons to market benefited both producers and consumers. Prorate provisions continue to be necessary under current market conditions, i.e. overproduction of lemons and static demand. The recommended amendments to the order are considered to be a more appropriate way to effectuate the declared policy of the act than termination of the order or of its prorate provisions.

The Department is not arguing that prorate is a panacea for the solution of overproduction or other marketing problems in the lemon industry. Nor should prorate's cost be allowed to outweigh its benefits as the lemon industry returns to a equilibrium between fresh domestic and export and products markets, when growers would be expected to earn normal returns on their investment. The USDA's Guidelines for Fruit, Vegetable, and Speciality Crop Marketing Orders states, in part, that prorates can be a valuable tool for effective marketing serving the interests of both producers and consumers through market stabilization and extension of the season. The guidelines also state that prorates should be used guardedly so as to avoid stifling individual incentive or overly restricting market supplies. In

order to bring the operations of the lemon marketing order into agreement with the Guidelines, it is necessary that prorate be used as a flow-to-market device. The current market allocation effects of prorate should be minimized to the extent possible consistent with the requirements of the act. To accomplish this, prorate should be used in conjunction with periods of open movement when aggregate demand for lemons exceeds supply during any prorate period or when the demand for particular grades of lemons exceeds the supply thereof. Allowing for periods of open movement and providing handlers with additional flexibilities in the form of exemption from prorate regulations as recommended in this decision would reduce the market allocation effects of prorate. Used in this fashion, prorate would be expected to provide the desirable orderly flow of lemons to market while avoiding unreasonable fluctuations in supplies and prices, without contributing to misallocation of resources or inequities between growers. Many witnesses supported the use of prorate to attain these objectives.

Briefs filed by the U.S. Small Business Administration (SBA), Department of Justice (Justice), Consumers Union (CU), and Tom C. Cole, Dave Roddick and Ehud Ariav (Cole et al.) argued in favor of termination of the existing order, or termination or phaseout of the flow-to-market (prorate) provisions of the order.

The SBA brief argues that prorate: Does not effectuate the declared purposes of the act; is anticompetitive; discriminates against small handlers; causes undermarketing; discourages technological and marketing innovations; promotes gross oversupply of lemons and misallocation of resources; adversely affects products and export markets and; perpetuates certain inequalities. The Justice brief argues that prorate: Is a monopolistic market allocation device not in the public interest; causes misallocation of resources; and inhibits promotional programs. The CU brief argues that prorate fails to protect consumer interests and has caused misallocation of resources. The brief filed by Cole et al. argues that prorate causes undermarketing and that the lemon order does not cover the smallest possible regional production area.

Many of these arguments are discussed in this and other material issues in this recommended decision. Witnesses at the hearing testified that the lemon industry is competitive at all levels since there are no order-imposed barriers to entry on growers, handlers, or marketing organizations. Increased competition, inequalities, undermarketing, and exemptions for technological or marketing innovations and promotional opportunities are addressed by the flexibilities to be authorized in material issues 3–9 and 12. With respect to parity prices, the parity objective stated in the act is a goal or maximum, rather than a requirement. Other points raised in the briefs are discussed in this material issue. For the reasons stated in this and related material issues, the findings requested to be made by these briefs with respect to material issue 1 are denied.

The briefs filed by the Lemon Administrative Committee (LAC) and Sunkist Growers, Inc. (Sunkist), argued in support of continuation of the order and the prorate provisions. The LAC brief argued that prorate was not the cause of current levels of overproduction and that it effectuates the declared policies of the act by providing for orderly marketing and stabilization of the agricultural sector. The LAC brief also pointed out that two instances in 1973 and 1975, when prorate was not allowed or was increased to a level where it was ineffective, resulted in instability in prices and supplies for lemons. The data available regarding these periods of prorate suspension and increased levels of prorate reflects short-term effects these actions could cause if implemented during a season without sufficient opportunity for advance planning by growers, handlers, and marketers of lemons. The eight-week minimum period of open movement of lemon shipments and other amendments recommended in this decision would become a permanent part of the order and the industry would have ample opportunity to plan for periods of open movement well in advance of these periods during each marketing season. Therefore, the short-term effects of these recommended amendments would be considerably different from the effects experienced by the industry in 1973 and 1975. It is anticipated that the long-term effects would be positive as well. The LAC brief offered additional arguments against those individuals proposing the termination of prorate or of the lemon order. The Sunkist brief raised similar arguments. Both briefs argue that opponents to prorate and the order fail to recognize the requirements of the act with respect to the short-term effects of terminating the order or its prorate provisions. In addition, the Justice brief recognizes the benefits of flow-to-market aspects of prorate while opposing its market allocation aspects. The Justice brief supports the phase out of prorate or other alternatives to eliminate costs to society. This recommended decision addresses some of the concerns presented in the Justice brief by offering modifications of prorate which focuses on its flow-to-market aspects.

(2) The marketing order should not be amended to redefine the production area to exclude District 1 (Central California) and District 3 (Arizona and the desert region of California) from coverage under the program. It was advanced that exclusion of these producing districts could be a preliminary step to developing separate marketing order programs tailored to the particular needs of growers and handlers in those areas. It was contended that production and marketing conditions in Districts 1 and 3 are uniquely different from those existing in District 2 (Southern California). Witnesses maintained that these conditions are not fully addressed by the order or by the Lemon Administrative Committee in its deliberations prior to recommending volume regulations and other actions to the Secretary. They asserted that the regulatory impact of the order is more restrictive on growers in Districts 1 and 3 than on growers in District 2 and returns to growers in Districts 1 and 3 are lower than returns to growers in District 2.

District 2 accounts for slightly more than one-half of the average annual production of California-Arizona lemons. Lemons are shipped from District 2 throughout the year. District 3 produces about one-third of the lemon crop with the balance from District 1. The majority of lemons are shipped from District 1 during the December–May period and from District 3 during the September–February period. Weekly average f.o.b. prices for fresh domestic shipments of lemons during winter months (November–April) are generally significantly lower than prices received during the summer months (May–October). Thus, greater returns are directly related to the timing and volume of lemon shipments from the different districts and relative prices received for such lemons.

Witnesses in support of the proposal to exclude District 1 from the production area cited a number of differences between District 1 and District 2, including lower production costs in District 1 and different handling and marketing practices. Other witnesses testified in support of the proposal to exclude District 3 from the production area. These witnesses also indicated that District 3 growers and handlers are uniquely positioned relative to District 2

in terms of lower production and marketing costs. It was indicated that both District 1 and District 3 growers and handlers could more advantageously market their lemons if current marketing order constraints were not imposed on them or if individual orders were instituted for each respective district.

The evidence of record, including the testimony of numerous witnesses, indicates that each district is an integral part of the production area and the proposed exclusion of District 1 and District 3 would not permit the industry to achieve a reasonable balance between weekly lemon shipments to fresh market outlets and the demand for lemons in such outlets. Lemons grown in the different districts may be commingled prior to shipment and the district identity of such lemons is not maintained in the marketplace. Lemons from any one district are shipped to essentially the same markets as lemons from any other district. Moreover, fresh shipments from each district are in direct competition for such markets during the period when two or more districts are simultaneously shipping lemons. Lemons of similar quality and size command generally the same price irrespective of the district from which the lemons are shipped. Some handlers ship lemons from all three producing districts and would be in a position to offset any restriction on shipments from one area with increased shipments from any unregulated area. The shipment of unlimited quantities of lemons from any unregulated area to markets in competition with shipments from areas subject to regulation under the order could depress prices and returns to producers to unreasonably low levels and create disorderly marketing conditions contrary to the objectives of the act and the order.

The marketing order recognizes that differences exist in the districts in the production and marketing of lemons. Accordingly, the order provides, among other things, for accelerated averaging of weekly picks for any handler of lemons grown in Districts 1 and 3, for computing the number of weeks in a prorate base period for each district and for upward adjustment of weekly picks. In addition, as indicated in material issue (3), it is recommended that the order be amended to provide for establishing prorate on a district basis. This provision should permit additional opportunity for recognizing district concerns in recommendations for prorate.

Based on the evidence of record, it is concluded that the presently defined production area is the smallest production area practicable consistent with carrying out the declared policy of the act and the issuance of several orders applicable to different districts would not effectively carry out such declared policy.

The proposals to exclude portions of the production area contained certain administrative and regulatory provisions that could be applicable to such areas under separate orders. However, the full terms and conditions of such orders were not developed with specificity. Under the proposals, implementation of separate marketing orders would require approval of the growers in that area voting in separate referenda. These proposals are also denied based on the above discussion on proposals for redefining the production area and establishing separate marketing orders.

Briefs were filed by Belridge Farms (Belridge), CU, SBA, and Cole et al. supporting exclusion of Districts 1 and 3. These briefs indicated that differences in production and marketing conditions in the different districts warrants separate marketing orders for each district. Briefs also indicated that the present order does not limit coverage to the smallest regional area practicable as required under the act. The brief filed by Tom C. Cole et al. indicated that, in the alternative, District 3 lemon growers should have the opportunity to vote on whether they will be covered under Order No. 910.

Briefs filed by Sunkist and the LAC opposed exclusion of Districts 1 and 3 from the production area on the basis that such action would disrupt orderly marketing of lemons.

Each brief was carefully considered in reaching a decision on this issue. It is found that exclusion of any district from coverage under the order would effectively render the present order inoperative because no basis would exist to assure an orderly flow of lemons to market. Also, the act requires that all producers subject to an order be provided an opportunity to participate in a referendum on termination of that order. Therefore, the request for a separate referendum for District 3 lemon growers is denied. Other points raised in these briefs which are at variance with the findings and conclusions contained in this material issue are denied for the reasons set forth herein. (3) Currently, lemon volume regulations are fixed weekly for the entire production area. The order should be amended to require establishment of volume regulations by district for any prorate period.

Evidence indicates that fixing prorate amounts by district could promote recognition of the difference in production and marketing conditions prevalent in the three districts and contribute to greater efficiency in the administration of the program. This authority should permit setting open movement for any district whenever warranted by existing production and marketing conditions in that district.

As previously indicated, Districts 1 and 3 exhibit a seasonal shipping pattern while District 2 ships lemons throughout the year. There have been instances when District 1 and 3 handlers at the beginning of their shipping seasons have not had adequate allotment available to them to ship lemons or lacked allotment to ship better quality lemons while at the same time lesser quality lemons were shipped from District 2 under prorate. A handler's prorate base is computed on the basis of average weekly lemon picks relative to the average weekly picks of handlers in all districts. The order does provide for accelerated averaging and upward adjustment of handler's weekly picks as well as other flexibilities for the purpose of giving the handler additional allotment at the beginnning of the season. However, these provisions have not always allowed District 1 and 3 handlers to ship sufficient quantities of lemons due to lack of available allotment. Establishing separate prorate for each district, consistent with the overall demand for California-Arizona lemons, should afford handlers in each district additional flexibility in marketing their lemons.

Evidence also indicates that District 1 and 3 handlers are attempting to extend their shipping seasons by applying different cultural practices and adopting new handling and storage technologies (e.g. shrink-wrapped lemons). These developments could result in a handler having a low prorate base (average weekly picks) relative to lemons available for shipment at certain times of the year. The record indicates that these situations could be effectively addressed through establishment of district prorate or setting open movement of lemon shipments from a district.

This decision revises § 910.51 (Recommendations for Regulation), § 910.52 (Issuance of Regulations), and § 910.56 (Allotments) to require establishment of volume regulation on a prorate district basis. Revision of § 910.53 (Prorate Bases) is necessary to modify the method of computing handler prorate bases to implement proration of lemon shipments on a district basis. Under such modification, the prorate base for each handler in a district would

be based on that handler's average weekly picks compared to the average weekly picks of other handlers in that district. This should assure that all handlers in the same district are placed in the same relative position with respect to allocation of prorate.

The order should be amended to allow the committee to recommend and the Secretary to approve rules and regulations necessary to implement and administer this authority.

(4) The order should be amended to require prorate periods of two weeks in duration or longer periods as may be recommended by the committee. The order presently provides for issuance of handler allotment on a weekly basis. The record indicates that two-week prorate periods would promote advance planning by handlers and contribute to development of promotional programs and efficient marketing of the crop. Under the amendment, handlers would have allotment available for use in shipping lemons at any time during the two-week prorate period or other specified period rather than having allotment issued to them for use on a weekly basis. Handlers indicate that opportunities exist to enter into forward contracts, i.e agreements to sell lemons at specified future dates, and longer prorate periods would facilitate arranging such contracts and scheduling deliveries.

One proposal was advanced to require a minimum 4-week prorate period. This proposal is not adopted since a prorate period of that duration may not always be appropriate to the then existing marketing conditions. It is anticipated that the committee would consider the length of prorate periods in formulating its marketing policy for the season and have the option of adjusting such prorate periods to reflect changed circumstances such as adverse weather conditions, except that the prorate period could not be less than two weeks in duration.

Another proposal would allow the committee to recommend prorate for two consecutive one-week periods. However, the committee is not presently limited in the number of consecutive one-week prorate periods which may be recommended at a meeting. Thus, no further change to the order is necessary to permit such recommendations.

One-week prorate periods do not permit the same flexibility to handlers as multiple week prorate periods would since handlers are compelled to limit shipments to the specified allotment for a specific regulation week rather than having all of the allotment available to them for use at any time during a multiple week prorate period. It was commented that allowing the committee to recommend two single week prorates could be more restrictive on handlers than the current single week prorate if the committee's prorate recommendation for the second week was too conservative. Some witnesses also indicated that when the initial committee volume recommendation is too low to meet demand, the committee must meet again, usually in the middle of the week, to recommend increases in the level of shipping allotment. This has caused serious problems in the ability of some handlers to use the additional allotment. For instance, smaller handlers may have limited supplies of lemons on hand and may not be able to fully use the additional allotment issued to them. Other handlers may have more lemons available for shipment but may not have sought more order business if they had already exhausted the full amount of allotment available to them.

Under those circumstances, a mid-week increase in allotment may be too late for these handlers to sell more fruit and use the additional allotment. Therefore, the order should be amended to require that the committee develop rules and regulations, subject to the approval of the Secretary, to prescribe criteria for recommending an increase in the quantities which may be handled during any proprate period. The intent of such rules and regulations is to reduce the need and frequency of recommendations to increase allotments. In the absence of such rules and regulations, no increases in such quantities are authorized. The committee is vested with the responsibility to assess market conditions and make a realistic recommendation as to the quantity of lemons which will be shiped to fresh domestic channels, consistent with the objective of orderly marketing of the crop. In that regard, the committee should in making its prorate recommendation adhere as closely as possible to the schedules of shipments for each prorate period set forth in its maketing policy. Deviation from the scheduled amount should require strong economic justification by the committee, including an analysis of the supply and demand conditions which requires a departure from the scheduled shipment levels.

The brief filed by SBA indicated that two consecutive one-week prorate periods have not increased handler shipping flexibility under other prorate orders primarily because of the low prorate set for the second week and the need for frequent amendments to prorate regulations.

The briefs filed by LAC and Sunkist supported two consecutive one-week prorate periods as a means to increase fresh lemon sales. These briefs opposed longer prorate periods. The Sunkist brief indicated that longer prorate periods would not allow the committee to respond to changes in supply and demand or weather factors.

This amendment would require prorate periods of two weeks in duration or longer periods as may be recommended by the committee. As indicated, the committee would have the flexibility to respond to changing supply, demand and weather conditions in recommending the duration of prorate periods with the exception that prorate periods could not be less than two weeks long. Briefs in opposition to these findings and conclusions are denied for the reasons set forth herein.

(5) The order should be amended to require a minimum of eight weeks of open movement of lemon shipments during the June-September period each year. In addition, the committee has authority to go to open movement at any other time of the year. Evidence indicates that demand for lemons, particularly first grade lemons, can exceed the supply available during this designated period. Opportunity should be made available to handlers to market additional quantities of lemons during the summer months when prices for lemons tend to be high. Benefits should also accrue to lemon producers by improving returns in the long term, while providing consumers ample quantities of reasonably priced fresh lemons. Evidence indicates that continuous use of prorate regulation may have contributed to overproduction of lemons in the production area. Less reliance on season-long prorate by providing for periods of unregulated movement of lemons should promote efficient utilization of the lemon crop.

The committee should evaluate whether market conditions warrant open movement at other times and make its recommendations accordingly. Under the terms of the order, the committee has the authority to recommend open movement of lemon shipments at any time. However, the committee has refrained from exercising this authority apparently because of the lack of definitive criteria which would serve as a basis for a recommendation for open movement of shipments. Therefore, the order should be amended to require the committee to specify, with the approval of the Secretary, rules and regulations to establish such criteria.

The record indicates that criteria for open movement of shipments may

include the total crop prospects in the production area and the estimated crop in a particular district. In that regard, one witness suggested that a crop of lemons in District 3 which was not in excess of 12,000 carlots may be successfully marketed without the need for regulation of District 3 shipments. Therefore, consideration should be given by the committee to fixing threshold levels of production by district below which regulation of shipments would not be initiated. The committee should be required to consider percentages of the projected crop (above the threshold level) or percentages of actual industry picks at which regulation of shipments from a district would begin (e.g. volume regulation of shipments of lemons would not commence until 15 percent of the district crop is picked) and percentages of the projected crop or actual industry picks at which regulation of shipments would cease. The authority to establish prorate regulation or open movement of shipments by district is referred to in material issue 3. Under the California-Arizona navel and Valencia orange marketing orders (7 CFR Parts 907 and 908) the applicable committees do not recommend prorate after 80–85 percent of the crop in each district has been utilized. Similar provisions are recommended for adoption by the LAC.

Another criteria may be the overall quality of the crop. Evidence indicates that during certain seasons the aggregate demand for better grades and sizes of lemons exceeds available supply of these grades and sizes of lemons. Also, at times average quality of lemons from a particular district is substantially better than average quality from another district. Under those circumstances, the committee should allow open movement of shipments from a district to facilitate shipment of better quality lemons. The committee should use these or other criteria as may be prescribed by informal rulemaking to support its recommendations for open movement of shipments.

Briefs on this issue were filed by LAC and Sunkist which opposed establishing prorate only during certain portions of the year. The LAC brief referred to testimony of witnesses who favored continuing prorate on the current basis. The Sunkist brief opposed a fixed schedule of open movement of lemon shipments primarily on the basis that current supply and demand conditions do not warrant it. However, as indicated, market demand for certain grades and sizes of lemons at certain times of the year can exceed available supply. The order should be amended to provide for periods of unregulated lemon movement to increase marketing opportunities when favorable demand conditions occur. Therefore, the recommendations in these briefs with respect to this material issue are denied.

(6) The order should be amended to exempt special purpose shipments of lemons from the prorate provisions of the order for purposes such as market research and development, and promotion. Certain types of shipments such as shrink-wrapped, irradiated, or organic lemons should also be exempted. Such exemption should be equal to a minimum of 10 percent of a handler's cumulative prorate allotments to date for the current fiscal year (shipping season), or 5,000 cartons, whichever is greater.

Several witnesses testified that prorate restricted them from seeking out new markets or made it difficult to arrange for promotions with customers due to their inability to generate additional prorate should such projects prove successful. Other witnesses testified that they were not adequately able to test new techniques such as shrink-wrap or irradiation due to prorate limitations. In order to facilitate a handler's ability to participate in such marketing opportunities, a minimum level of shipments exempt from prorate regulations is necessary. While no specific quantities or levels of exemption were proposed at the hearing (with the exception of a total exemption for shrink-wrapped and organically grown lemons), an initial level of 10 percent of a handler's cumulative prorate allotments for the shipping season to date or 5,000 cartons, whichever is greater, should provide an ample quantity for handler's to test such new techniques and participate in promotional opportunities. The 5,000 carton minimum should allow small handlers to participate in such programs and also provide increased flexibility for larger handlers. The 10 percent exemption for all uses is cumulative, not a 10 percent exemption for each individual type of shipment. However, should emerging technologies or other uses such as shrinkwrapped lemons prove particularly effective or should research or equipment costs of a new marketing or packaging technology require a higher level of exemption to attain an equitable return, the committee should be authorized to increase the level of exemption for such specific uses, subject to the approval of the Secretary. The committee should review the levels of exemption for all uses each year when it formulates its marketing policy for the coming season and recommend revisions of such percentages of exemption if necessary. However, a minimum exemption of 10 percent for all uses should be maintained. Testimony indicated that the committee should develop rules and regulations to implement this exemption since current application for exemption procedures may not be adequate for the committee to determine the efficacy of a proposed research and development project, promotional project, or the need for an exemption of a specific type of shipment. Evidence also shows that the committee should devise rules, regulations and safeguards, subject to the approval of the Secretary, to assure compliance with such an exemption.

One witness proposed a total exemption for shrink-wrapped lemons and was supported by others. However, record evidence shows that various marketing organizations are currently handling shrink-wrapped lemons, while others were unsure as to the effectiveness and impacts of the process. It appears that shrink-wrapped lemons should be given consideration under the minimum quantity exemptions already discussed. Other flexibilites such as those discussed in material issues 3 and 5, if adopted, could allow for more usage of shrink-wrapped lemons. For these reasons, the proposal to totally exempt shrink-wrapped lemons from regulation is denied.

Representatives of Pure Gold, Inc., proposed that the order be amended to require the conduct of a research project to provide a better understanding of the impacts that the basic physiology of the lemon fruit has on growing patterns, both within and between districts, storage life, products utilization, handling facilities utilization, exports and the total market. Such a project is currently authorized under existing order authorities and would require only a majority vote of the committee to be implemented. Making the conduct of such a project mandatory under the order is unnecessarily burdensome and the proposal is therefore denied.

A proposal by N. J. Riebe would also have revised regulations relative to charitable donations by providing for disposition of excess lemons to charitable and relief organizations. Such excess lemons would be those not required for use in fresh, export and products outlets. However, handlers are now able to donate any number of lemons to charitable and other organizations. The order should not be amended to regulate the quantity of lemons which may be donated since this may result in additional costs which handlers may not wish to incur. Therefore, the proposal is denied.

An additional proposal by Perry L. Walker would have revised regulations relative to charitable donations. However, the proposed changes appear to be more burdensome than the existing regulations and were not generally supported in the record. The proposal is therefore denied.

One witness desired a complete exemption for organically grown fruit. While there should be authority to exempt certain quantities of shipments of organic fruit, the proposal to exempt all such fruit is denied. A total exemption could be an inducement for handlers to attempt to circumvent the order and regulations. That witness also proposed exemptions for handlers whose total movement was less than 250 cartons per week. This proposal has merit but could act as an inducement for some handlers to establish bifurcated operations in addition to their major handling operation in order to receive the 249 cartons per week of free prorate. Such an exemption could be authorized under the minimum quality exemptions already discussed.

Briefs filed by the LAC and Sunkist opposed small handler exemptions as being unworkable, and also opposed total exemptions for shrink-wrapped or organically grown lemons. Both briefs supported the adoption of the LAC's proposal No. 11 in the reopened notice of hearing to provide authority for exemptions from prorate regulation for market research and development projects. Briefs filed by Cole et al., Sam Perricone, Ehud Ariav, David Roddick and Michael Weatherwac (Perricone et al.) Justice, and the SBA supported a total exemption from prorate for shrink-wrapped lemons. The SBA brief supported a similar exemption for small handlers and organically grown lemons. The arguments presented in all such briefs were considered in the development of this material issue and to the extent that such recommended findings are inconsistent with the flexibilities outlined herein, they are denied.

(7) The order should be amended to exempt the shipment of premium quality lemons from prorate regulations during certain periods and authorize their exemption at other times. Several witnesses claimed that they were unable to market their premium quality fruit during certain periods in the early part of their shipping seasons due to inadequate prorate. Exemption of such premium quality fruit should provide benefits to consumers by making more of such fruit available to the fresh domestic market.

To utilize the exemption for premium quality shipments, the committee should be authorized to define grades of fruit, either as U.S. Grades or by devising a marketing order standard. Until such grade standards are developed by the committee, the standards for premium quality lemons should be those requirements for U.S. No. 1 fresh lemons contained in the United States Standards for Grades of Lemons (7 CFR 51.1795–51.2821). This exemption would allow unrestricted shipments of premium grades of lemons during the summer period, June-September, when supplies of premium quality lemons lag behind demand. The order should also be amended to require inspection and certification of all lemons which handlers desire to ship under the premium quality exemption. such inspection should be conducted by the Federal-State Inspection Service. Handlers should be required to submit inspection certificates to the committee and to maintain adequate records to ensure compliance with this part. Since some handlers may be in locations where inspection services are unavailable, the committee should be authorized to recommend, subject to approval of the Secretary, rules and regulations to exempt such handlers from inspection requirements. Such handlers would still be required to certify that their fruit met the minimum quality requirements.

The committee should also choose to exempt shipments of premium quality lemons for an entire season depending on the relative proportions of premium quality to lesser quality lemons available for shipment. Similarly, it would be possible to exempt premium quality shipments by district. The committee would recommend rules and regulations for approval by the Secretary to effectuate this premium quality exemption.

While there was oppostion to the imposition of grade standards due to the increased cost to handlers, such an inspection and certification program, once authorized, would be on a voluntary basis. Since premium quality fruit normally sells for a higher price, handlers utilizing the exemption should be able to recoup the additional inspection costs.

(8) In order to allow handlers to benefit from promotional opportunities and to avoid disruption of market research and development projects, the order should be amended to provide handlers with a special allotment, designated "marketing incentive allotment" which would be a specific minimum number of prorate periods in which such handlers could overship their prorate allotments for such periods by a specified percentage. Such overshipment would be in addition to other allotment and overshipment allowances authorized under the order and would be an additional fexibility which would allow handlers to better plan research or promotional projects. However, marketing incentive allotment should not be available to any handler during the same prorate period in which such handler utilizes an exemption for special purpose shipments as described in material issue 6. Such usage would be duplicative and is not warranted. The committee could recommend to the Secretary for approval, the minimum number of prorate periods and the specified percentage. Unless otherwise recommended by the committee, the minimum number of prorate periods would be four such periods with the specified percentage being ten percent of the handler's prorate for the period during which the incentive allotment is to be used. The ten percent level was discussed at the hearing by one witness while the four prorate period minimum is a designation by USDA, designed to implement this flexibility quickly. Both are subject to modification by the committee through additional rules and regulations to be recommended to the Secretary for approval. The committee is not precluded from recommending, and the Secretary approving, modifications of the use of marketing incentive allotment if such use proves to be counterproductive to the objective of oderly marketing if lemons.

Handlers should not need prior committee approval to receive marketing incentive allotment and the burden on handlers to use marketing incentive allotment should be kept minimal. It would be reasonable, however, to require handlers to notify the committee of their intention to use such marketing incentive allotment, by telephone or other means, some time before the prorate period in which such allotment would be used.

There should also be safeguards to prevent the abuse of the market incentive allotment program. Accordingly, the committee is authorized to recommend rules and regulations to the Secretary for approval which would require handlers to provide sufficient information to determine how such allotment was used. Marketing incentive allotment should be used during the prorate period for which it is issued and since such allotment is for individual handlers in cannot be loaned or transferred to other handlers. Nor should unused marketing incentive allotment be allowed to be carried forward to subsequent prorate periods.

(9) The order should be amended to authorize handlers to carry forward, without forfeiture of allotment, undershipments of allotment to the next two succeeding weeks unless the committee recommends and the Secretary approves a shorter or longer period. Carry-forward of undershipments of a handler's allotment is currently limited to the first succeeding week following the week in which the undershipment occurred. Undershipped allotment which is not used or loaned to another handler is forfeited. Handlers seek to avoid forfeitures of allotment because such forfeited allotment is irrevocably lost. The record indicates the desirability of extending the period for which undershipments may be carried forward to cope with unusual circumstances. For example, a handler may encounter problems with the quality of fruit which is available for shipment which may temporarily reduce order business so that the handler does not use the full amount of allotment issued for the prorate period.

The order should be amended to authorize the Secretary, based upon committee recommendations, to increase or decrease the number of weeks that undershipments may be carried forward as experience is gained in the administration of these provisions. In the absence of such recommendation, the period for carrying forward undershipments will be two weeks.

Briefs filed by LAC and Sunkist supported carrying forward undershipments of allotment for the next two succeeding weeks as a means of increasing flexibility in marketing the crop.

(10) Basically, handlers' prorate bases are computed under the order on the basis of the quantity of lemons picked and delivered to the handler. The quantity so picked and delivered is divided by the specified number of weeks in the handler's prorate base period to arrive at the handler's average weekly picks for the period. The number of weeks in the prorate base periods for the districts, as specified in § 910.153(g) of the rules and regulations, are District 1—6 weeks: District 2—12 weeks; and District 3—4 weeks. In order to update the order to reflect the current prorate base periods for the districts, § 190.53(e) should be revised and § 910.153(g) should then be removed from the rules and regulations.

Any handler of lemons produced in any district under production or marketing conditions substantially different from those generally prevailing in that district may apply for a different prorate base period than that specified for the district. As specified in § 910.153(h), the number of weeks in a different prorate base that a handler may apply for may not be less than 4 weeks nor more than 12 weeks. A change in § 910.53(g) is necessary to conform to this range of prorate base periods available to handlers.

A handler's prorate base represents the ratio between the handler's average weekly picks and the total of all handler's average weekly picks. A handler's allotment is the quantity of lemons which may be handled by a handler during a particular regulation period, and equals the product of the handler's prorate base and the quantity of lemons fixed by the Secretary as the quantity of lemons which may be handled during such period.

Section 910.53(i) of the order currently prescribes the method of adjustment of prorate base by open certification. These provisions became effective when the order was amended on November 5, 1982. The Secretary's Decision with respect to the 1982 amendment of the order indicated that a review of open certification procedures should be undertaken. The record indicates that based on the experiences of the 1982–83 lemon season, open certification provisions should be continued, except for the recommended modifications, as hereinafter set forth.

As currently provided, the quantity of lemons which may be certified for a handler in each certification credit period may not exceed 25 percent of the total estimated tree crop controlled by the handler. This provision should be amended to provide that the amount of certification in each certification credit period shall be not more than 2.5 percent per week of the total estimated tree crop controlled by the handler. Specification of such percentage adjustment is necessary to establish the maximum amount of lemons which may be certified during any particular week. Handlers tend to schedule and adjust harvesting operations on a weekly basis. A limitation on the maximum weekly amount of lemons which may be certified should maintain handler equity and prevent distortion in normal harvesting and marketing patterns. The specified percentage adjustment should apply to all handlers in all districts. The order should continue to provide that the quantity of lemons certified shall be credited to the handlers' average weekly picks in equal weekly amounts over the number of weeks in the credit period.

It was proposed in the notice of hearing that the certification procedure specify that a minimum percentage of certified lemons be included in prorate bases. The percentage proposed was one percent per week of the total estimated tree estimated tree crop controlled by the handler. Proponent witnesses opposed the proposed minimum percentage at this time because it may operate to the disadvantage of some handlers by restricting certification credits. It was proposed, as a modification, that a provision be included in the order to establish a minimum weekly quantity of lemons for certification by recommendation of the committee and approval by the Secretary. This would allow the necessary flexibility to make such a change if future conditions warrent.

Section § 910.53(e) should be amended to define the certification credit period by district (i.e. the time period over which certification adjustments are applied) in recognition of the differences between the prorate districts in production and marketing conditions. The certification credit periods for Districts 1 and 3 should not be less than 5 weeks nor more than 10 weeks commencing with the week the adjustment is approved by the committee. Certification adjustments in District 2 should be applied over a period of not less than 5 weeks nor more than 13 weeks commending with the week the adjustment is approved by the committee. These periods should afford handlers full opportunity to avail themselves of certification credits depending on their own particular harvesting and marketing situations.

The order currently authorizes the committee to recommend, and the Secretary to approve, rules and regulations to effectuate the provisions relative to certification. The scope of this rulemaking authority should be expanded to include adjustments in the various time periods and percentages set forth therein. Changes in economic and marketing conditions may dictate need for revision of open certification procedures. The order should provide the necessary flexibility to make such revisions more expeditiously, and without having to incur the costs of an additional formal rulemaking procedure. Section 910.53(f)(1) of the order should be amended to increase the percentage of upward adjustment of average weekly picks of any District 1 and 3 handler from no more than 50 percent to 100 percent. The 100 percent upward adjustment factor has been an option available to such handlers each season since January 1, 1979, under administrative rules and regulations issued pursuant to the order. Provision for 100 percent upward adjustment is

currently prescribed in § 910.153(e)(3) of the rules and regulations. Such adjustment has achieved the desired flexibility in handler operations and should continue to be available to handlers at their option. Handlers in districts 1 and 3 may request and be granted an upward adjustment in their average weekly pick to accelerate their receipt of allotment during the first half of their season, subject to payback during the last half of their season. Repayment of upward adjustments is normally affected by subtracting from the handler's average weekly picks the quantity of upward adjustments previously taken. The order authorizes other means of satisfying repayment of such obligations as may be recommended by the committee and approved by the Secretary. One such method allows handlers to repay upward adjustments by certification of an equal quantity of lemons on the trees when specified conditions are met. The order should be amended to clarify this optional method of repayment of upward adjustments. In effect, this provision allows use of average weekly pick credits to repay upward adjustments, and the order should so provide. The order should also be amended to provide that the obligations to repay upward adjustments by deductions from average weekly pick credits shall not carry over to the following season as certification credits are based on the then current crop.

Section 910.53(f)(2) should be revised to change from 8 successive weeks to 4 successive weeks the minimum time which a District 2 handler must have ceased picking lemons to become eligible to apply for a new prorate base period. The amendment conforms with rules and regulations under the order which were changed to add flexibility for District 2 handlers whose picks are interrupted because of weather or for other reasons. In addition, it was testified that handlers of lemons produced in Districts 1 and 3 may be faced with similar problems i.e. weather and other conditions which interrupt harvesting. Handlers in Districts 1 and 3 should be permitted, under such circumstances, to apply for a new prorate base period after picks are interrupted for a period of 4 successive weeks or more and, if desired, for accelerated averaging of weekly picks and for the option of either upward adjustments or open certification. This provision should be implemented by a recommendation of the committee.

Much of the testimony in opposition to the recommended amendment was directed against the prorate concept in general and alleged discrimination against handlers of lemons grown in different districts in particular.

One proposal was made to compute a handler's prorate base on the basis of lemons removed from production. The specific proposal would provide for crediting a handler's base on the basis of average production from lemon acreage removed from production or grafted to other citrus during a prior 3-year period. The stated purpose of the credit is to encourage the orderly removal of bearing lemon acreage in Districts 1 and 3 and the desert areas of District 2. Testimony indicated that increased bearing acreage and yield in these areas have resulted in oversupplies of lemons during the winter months and an incentive should be provided to reduce excess bearing acreage. The proposal would be administered under rules and regulations.

Under the proposal, the credit would be applied on the same basis as the on-tree certification program. However, the certification program provides for adjustments to a handler's prorate base by certifying lemons which are available for harvest and shipment, while the proposed creating procedure would take into account lemons removed from production. The act provides for allocating allotments to handlers through a uniform rule based upon the amounts which each handler has available for current shipment, or upon the amounts shipped by each handler in a representative prior period, or both. The proposal is not consistent with the act and is therefore denied.

Alternative proposals were made to eliminate the current pick system as a basis for determining handler prorate and base allotment on tree crop or the supply available for marketing. Testimony in support of these proposals was sketchy and incomplete, and failed to demonstrate how the proposals would improve the effectiveness of the order. Therefore, these proposals are not adopted.

(11) The order should not be amended to include lemon shipments to Japan under prorate regulation. The record indicates that Japan is a major export market for California-Arizona lemons. Lemon exports to Japan generally occur throughout the year. Witnesses in support of this proposal indicated that proration of export shipments to Japan is desirable to mitigate seasonal fluctuations in supplies and prices of U.S. lemons in Japan and assure shipments of the better grades and sizes of lemons which that market requires.

There are about 50 major Japanese importers of U.S. lemons. The record indicates that the occurrence of excessively large volumes or relative shortages of lemons in the Japanese market tends to be the result of the purchasing decisions of these importers and the periodic lack of availability of lemons of the preferred grades and sizes. The proposal to provide authority to prorate shipments to Japan would not necessarily correct the problem of fluctuating levels of lemon exports to Japan or assure uniform quality in export shipments. It would, however, substantially increase the regulatory burden on handlers.

A separate proposal was made to include all exports of lemons under regulation to assure shipment of lemons appropriate to demand in foreign markets.

Currently, export shipments, except to Canada (which is considered part of the domestic market) are not subject to regulation under the order. Handlers should be provided wide latitude in developing and expanding export markets for lemons and no provision should be added to the marketing order which would inhibit this activity.

Opponent witnesses indicated that the industry is seeking to minimize regulation under the program and efforts should be made to expand export markets. These witnesses strongly opposed the proposed amendment as being inconsistent with these objectives. Other witnesses indicated that compliance with the proposal to include exports under prorate could be difficult and expensive and would impose unnecessary barriers to foreign trade.

The LAC and Sunkist filed briefs opposed to including Japan under prorate on the basis that the record indicates that such a proposal is unworkable, could reduce the total volume of lemons shipped to Japan from the United States, and could allow competing lemon-producing countries an opportunity to make inroads into that market.

Based on the foregoing reasons, these proposals are not adopted.

(12) Section 910.33 of the order should be amended to authorize the committee to participate in market promotion projects for lemons, including paid advertising. The expenses of such projects should be paid from funds collected pursuant to § 910.41. Record evidence shows support for types of advertising which would increase consumer demand, or which would result in increased per capita consumption of lemons. Many individuals favored generic advertising

of lemons under the coordination of the committee. Such advertising could be directed at consumers, wholesalers, the food service industry or other market segments. Some witnesses testified that such a program should be mandatory, while most felt that the committee should be able to conduct studies to determine the potential effectiveness and costs of any such program. One witness testified that the costs associated with a successful advertising program would be too burdensome to producers. However, the committee would be expected to be judicious in the expenditure of such funds and not likely to incur costs without an anticipated gain for producers. Nor would the committee be expected to engage in a massive and expensive nationwide advertising campaign without first testing smaller or regional markets to determine the efficacy of such types of advertising. In addition, expenditures of funds for a generic advertising project would require the approval of the Secretary. Funds to cover the expenses of such programs would come from collections pursuant to § 910.41.

In that regard, the committee should be authorized to establish separate assessment rates for administrative functions and market promotion projects conducted pursuant to § 910.33. Such assessment rates would be recommended by the committee for approval by the Secretary.

In some cases, handlers may find the costs of a generic advertising program too burdensome or may feel that such a program would not be beneficial to their operation. In recognition of this, § 910.41 should also be amended to provide that individual handlers may request a refund of a portion of assessments for promotion and advertising. The committee should prescribe rules and regulations, subject to the approval of the Secretary, to develop procedures and forms by which handlers may request such refunds, dates by which such requests from handlers must be received by the committee, the percentage of such an assessment which would be available for refund, and the manner in which and dates by which such refunds shall be made to handlers. In recommending the market promotion assessment rate and the percentage of such an assessment which would be available for refund, the committee should carefully consider industry sentiment for an advertising and promotion program, the desires of handlers to participate in such a program, and the minimum level of funds necessary for the conduct of a viable market promotion and advertising project. In order to provide such a minimum level of funding, the committee should not recommend a percentage available for refund greater than 90 percent. Any assessment authorized under § 910.41 would be applicable to all lemons shipped during the fiscal year, subject to authorized refunds.

In order to provide for continuity in the conduct of year to year marketing promotion projects or to allow for at least minimal participation in such projects, the committee should be authorized to carry over into a market promotion reserve, unexpended funds collected for the purposes of promotion and advertising. Such a reserve would be separate from the operational reserve established under § 910.42, and funds from the operational reserve shall not be expended for the purposes of market promotion or paid advertising. Funds in a market promotion reserve could be utilized in years when there is no such assessment or when assessment income is inadequate to finance market promotion projects. Funds not retained in such a reserve would, to the extent practicable, be returned to handlers in proportion to the amounts collected from such handlers for promotion and advertising. Since a market promotion reserve should not be excessive, and to prevent such a reserve from becoming unduly burdensome on handlers, it would be reasonable to limit such a reserve to approximately one-half of one year's expenses for promotion and advertising.

Several producers who were members of Sunkist Growers, Inc., supported generic advertising only if the Sunkist organization received a brand credit offset for assessents for generic advertising. However, such brand credit authority does not currently exist in the act. Further, Sunkist's Growers would be expected to reap the benefits of generic advertising on an equal basis with other growers, as well as receiving further benefits from advertisements under the Sunkist label.

One witness proposed an advertising program for products of fruit. This also is not currently authorized by the act, nor would it be equitable for handlers of fresh lemons to be the source of revenues for the advertising of products fruit.

Briefs filed by Sunkist and the LAC opposed including authority for generic advertising in the order, especially if such advertising were made mandatory. The major argument presented was the possible high costs of such a program during a period when producer returns are extremely low. However, the authority for conducting generic advertising is permissive and not mandatory. It would require a majority vote of the committee to conduct studies on how to best implement such a program. The likelihood of the committee taking an action which has the prospects of further lowering producer returns, and having such action approved by the Secretary, is extremely low. Additionally, individual handlers would have the right to request a refund of a portion of their assessment for such a program, further reducing any burden associated with such advertising. For these reasons and those stated in this material issue the arguments against authority for a generic advertising program are denied.

Briefs filed by Cole et al., and the SBA support the inclusion of authority for generic advertising in order to obtain the benefits discussed in this material issue.

(13) The Department's Guidelines for Fruit, Vegetable & Specialty Crop Marketing Orders specify that all committees' memberships should be limited in tenure. Accordingly, at the Oakview session of the hearing, the committee proposed that members be precluded from serving on the committee for more than 5 consecutive 2-year terms of office. The committee subsequently modified this requirement to 3 consecutive 2-year terms of office. However, any person who had served 3 such terms would be eligible to again serve as a member after such person had been off the committee, as member, for 1 term (2 years). Another proposal was to limit tenure to a single 3-year term, with a member becoming eligible to serve again after being off the committee for one year. Any limitation in tenure is intended to cause a higher number of individuals to serve on the committee. This is designed to bring new ideas and perspectives to committee deliberations.

The committee should have the benefit of a membership which has extensive experience. As a general rule, it takes a period of time for a new member to fully understand the operation of the marketing order. The hearing record clearly demonstrates the advisability and desirability of limiting tenure. However, a limitation of 3 years may not permit an individual sufficient time to become fully effective as a committee member. A limitation of 6 years should effect the desired change toward greater participation on the committee. Therefore, § 910.21 of the order would be amended to provide that tenure should be limited to 3 consecutive 2-year terms of office. This requirement would not apply to

alternate or additional alternate members of the committee since such alternates seldom attend in place of their respective members for significant periods of time. Additionally, such alternate members often subsequently become members and the time spent as an alternate can be valuable experience. The tenure requirement would be retroactive to July 31, 1980. Hearing evidence indicates that turnover on the committee has occurred regularly and the proposed requirement should not be burdensome.

(14) One witness proposed at the hearing that the terms of office of committee members should be staggered in order to help maintain continuity and experience on the committee, while regularly adding new members. Additionally, the committee proposed that the implementation of tenure requirements be staggered and that it be authorized to prescribe rules and regulations to effectuate the change from consecutive terms of office to staggered terms of office. This could result in a staggered committee in terms of length of tenure. However, as stated in material issue 13, the tenure requirement would be retroactive to July 31, 1980.

Accordingly, the members of the committee should be divided into odd and even-numbered year groups, and an equitable apportionment made based on the current make-up of the committee. Should producer affiliations change in the future, requiring reallocation of membership on the committee, the committee would be authorized to recommend such changes in rules and regulations for approval by the Secretary as would maintain an equitable number of experienced growers from each district and experienced handlers from each marketing affiliation on the committee, insofar as practicable.

Therefore, § 910.21 should be amended to provide that 6 of the committee members and their alternates shall be nominated in even-numbered years and 6 members and their alternates shall be nominated in odd-numbered years. To effectuate this change, nominations in 1986 should select one half of the committee membership for a 1-year term of office and the remaining membership for a 2-year term of office. For those individuals who serve a 1-year term of office, such term of office would not apply to tenure requirements.

The committee members and their respective alternates should be nominated based on the following table:

Affiliation	2-year term	1-year term
Co-operative with more than 60 percent.	1 District 1 Grower.	1 District 2 Growers.
	1 District 2 Growers.	1 District 3 Growers.
	1 Handler.	1 Handler.
Other Cooperatives.	1 Handler	1 District 2 Grower.
Independents	1 District 2 Grower	1 District 2 Grower.
	1 District 3 Grower.	1 Handler.

The committee nominated in 1986 should nominate the public member and alternate who would serve a 2-year term of office. All nominations subsequent to the 1986 nominations would be for 2-year terms of office.

The order should also be amended to bring the provisions in §§ 910.20(b) and 910.22 relating to nomination of grower members by prorate district and marketing group into conformity with the provisions in § 910.120 of the administrative rules and regulations. Section 910.120 changed committee representation on the basis of the proportionate amounts of lemons handled by the respective marketing groups and production within each district, and such apportionment of members is currently appropriate.

(15) It was proposed by one witness that committee nominations be conducted by mail balloting. While this procedure seems unnecessary for cooperative association positions on the committee (since such nominations normally come from resolutions of the Board of Directors of the individual cooperative association), mail balloting should encourage greater participation in the nominating process for members in the independent category. Accordingly, the committee should prepare and submit proposed rules and regulations with respect to mail balloting procedures for approval by the Secretary. Such procedures should be developed as soon as possible and recommended to the Secretary for approval through rules published in the **Federal Register.** Such procedures should address: eligibility requirements for nomination; location and numbers of nomination meetings to be held; methods for conducting such mailings; methods of developing slates of candidates for producer approval; the means of announcing nominations to the industry; criteria for the selection of nominees; dates by which such mail balloting nomination procedures will be conducted and; other information deemed necessary by the committee. In this regard, the committee is authorized and expected to develop and maintain accurate grower lists in accordance with recommended amendments in reporting and recordkeeping provisions discussed in material issue 26.

(16) Currently, each grower and handler member has an alternate and each grower member has an additional alternate. Some handler members and alternates on the committee are involved in marketing lemons in both domestic and foreign markets, and also serve as members and alternates on other marketing order administrative committees. For these reasons, both the handler member and alternate member may occasionally be unable to attend committee meetings. The provision of an additional alternate for each handler member to serve in place of an absent handler member and alternate member should assure full industry representation and participation at committee meetings. Such a provision is currently in effect for additional alternate producer members. This provision has ensured adequate participation by producers at committee meetings. Consequently, the order should be amended to establish additional alternate handler members.

(17) In addition to the 8 grower members and 4 handler members on the committee, the order currently provides for a nonindustry member who is not a grower or handler, or an employee, agent, or representative of a grower or handler. The order should be amended to redesignate such nonindustry member as the public member to reflect the character of such member's position. There should also be an alternate public member. The public member should assure that consumer interests are taken into consideration in the deliberations of the committee and it is expected that the public member would vote on issues before the committee in the same manner as producer or handler members. The public member and alternate should possess specific qualifications to fulfill their duties under the order. They should have no financial interest in or be associated with production, processing, financing, or marketing (excpet as consumers) of lemons. They should be able to devote sufficient time and express a willingness to attend committee activities regularly. Public members and alternates should be residents of the production area. Other witnesses suggested that 2 or more public members would be more beneficial. However, there is no evidence that 1 such member can not adequately express the views of the public. Therefore, the proposals for more than 1 public member are denied.

Section 910.22 should also be amended to provide for nomination of the public member by a concurring vote

of 7 members of the committee. This is the requirement now specified for nomination of the nonindustry member and would be an appropriate basis of nomination of the public member.

(18) The 2-year term of office of committee members should be changed from beginning on August 1 and ending on July 31 of each even-numbered year to a 2-year term beginning on September 1 and ending on August 31 of each even or odd-numbered year, depending on which year the members were nominated. This change would enable the committee members and their alternates to organize and begin meetings coincident with the start of the fiscal year and aid in the development of the marketing policy and budgetary information for the ensuing fiscal year.

(19) Other witnesses testified to the need of having a committee composed solely of producers and public members. Such proposals would have constituted committees ranging in size from 11 memers to a number conceiveably as high as 63 members. Testimony in favor of these proposals did not adequately demonstrate the need to exclude handlers from the committee, nor did they fully explain how growers would obtain or interpret the marketing information currently reviewed by such handler members. Several witnesses testified to the need to continue to fully utilize the expertise of the handler segment of the industry and that such utilization was best accomplished by having handler members on the committee. Consequently, proposals to restrict the committee membership to producers and public members are denied. In addition, other changes relative to procedures for nominations, committee procedures, and voting and quorum requirements are denied since they relied on the adoption of the proposed reorganzied committees.

The briefs filed by LAC and Sunkist opposed such reorganzed committees and the concommitent changes in nominations, committee procedures, and voting and quorum requirements. Such proposals were argued to be vague and unworkable, while one proposal failed to provide for alternate members.

(20) The order should be amended to add a new § 910.16 authorizing the committee to appoint consumer affairs advisors and to define the duties and compensation for such individuals. Such consumer affairs advisors could be employed by the committee for special projects or as long-term advisors to the committee. Such advisors could contribute to market research and development projects or studies of consumer buying patterns and marketing techniques. Clearly, utilization of such advisors could be beneficial to the administration of the order. The committee should be allowed to determine the duties and degree or amount of compensation of such advisors as the need for their input is identified. This would allow the committee to respond to situations on an individual basis.

(21) The order now provides that committee members, and their respective alternates when acting as members, or when in attendance at committee meetings pursuant to committee authorization, shall be reimbured for expenses necessarily incurred by them in the performance of their duties and in the exercise of their powers, and shall receive compensation at a rate to be determined by the committee. Such rate shall not exceed $25 for each day, or portion thereof, spent in attending meetings of the committee.

The notice of hearing contained a proposal to increase the compensation rate to an amount not exceeding $100 for each day, or portion thereof, spent in attending meetings of the committee in the performance of their duties and the exercise of their powers. The increase in compensation would recognize the general inflationary trend in costs which have occurred since the $25 rate was established in 1970. The order should allow the Secretary to establish, pursuant to recommendation of the committee, the authorized compensation by issuance of administrative regulations. Testimony at the hearing indicated that at the present time compensation of $50 per day would be adequate, and that amount should be established by issuance of rules and regulations under the order. Various proposals to change the daily compensation rate ranged from $50 to $250. The record indicates that a rate of $250 per day would prohibitively increase committee expenses. Accordingly, § 910.29 should be amended to increase the maximum amount of compensation to $100 per day.

(22) The order should be amended to include authority for establishing a late payment charge on unpaid handler assessments. This is designed to encourage prompt payment of assessments by handlers. The record indicates that there is a trend toward slower payment of assessments by some handlers, which is unfair and inequitable to all other handlers paying assessments on time.

Testimony was also presented indicating that the amount of the late payment charge, the amount of time elapsed before application of a late payment charge, and the details relating thereto should be established by the issuance of rules and regulations recommended by the committee and approved by the Secretary.

Testimony was presented in opposition to the proposal on the basis that it does not respond to USDA guidelines or tend to improve producer returns. USDA guidelines on marketing orders do not specifically refer to handler assessments. Prorata assessments on handlers to finance administration of the order is provided for under the act.

A brief filed by Exeter Orange Company, Inc. (Exeter) indicated that since the number of handlers who are delinquent in payment of assessments accounts for only a small percentage of the industry, authority for a late payment charge is unnecessary. However, the record is clear that the failure of any handler to pay assessments promptly can adversely affect the operation of the order. It was also suggested that the proposal lacks specific detail, which could lead to discriminatory enforcement and dissuade persons from filing administrative petitions. There were questions raised at the hearing regarding the amount of late payment charges that may be levied against handlers. However, no specific amount was mentioned. Instead, it was testified that it would be more appropriate to specify the detail implementing late payment charges in administrative regulations after opportunity for public input. As indicated, the record emphasizes that administrative regulations would contain specific detail to implement late payment charges and any such charges shall be uniformly applied to all handlers. The amendment would not impair any person's rights to initiate administrative remedies. Therefore, it is concluded that the provisions of the order should be amended as hereinafter set forth.

(23) Several provisions in § 910.59, pertaining to allotment loans, should be amended to provide greater flexibility and to facilitate the administration of these provisions. One change affects the terms of allotment loans and repayment schedules. Currently, if an allotment loan is not repaid on the date stipulated in the loan agreement between the lending and borrowing handler then the allotment is required to be repaid as soon as the borrowing handler has allotment available for such purpose. The record indicates that adverse weather or labor problems may temporarily halt the picking of lemons. Handlers' earnings of allotment would

be correspondingly reduced. The requirement for complete repayment of allotment loans as soon as allotment becomes available may place the handler in a position of earning allotment simply to repay loans with inadequate or no allotment to fill the handler's own orders for lemons. This would result in an undue hardship on handlers. The record indicates that under these circumstances it may be preferable to gradually offset the handler's allotment loan obligation against allotment earned and take other corrective actions to mitigate the impact on handlers' allotment earnings. Accordingly, the order should authorize the committee to determine the manner and number of weeks during which the handler's allotment loan obligation is to be repaid. An alternative proposal was made to require allotment loan repayments before the end of the applicable season. However, as indicated, a handler may be unable to repay an allotment loan for reasons beyond the handler's control, such as interruption of harvesting by adverse weather. Therefore, this proposal is denied.

There have been instances when handlers with outstanding allotment loan obligations have gone out of business or discontinued operations in a particular prorate district and have defaulted on such obligations. Handlers plan their operations expecting allotment loans to be repayed, and the nonpayment of such loans can adversely affects handlers' operations. In order to minimize financial loss to lending handlers, the order should be amended to authorize the committee to repay, within defined limits, the allotment loan obligation of a borrowing handler who is no longer in business, or has ceased to operate in a prorate district. The order should authorize the committee to issue special allotments for such purposes equal to two and one-half percent of the quantity which the committee deems advisable to be handled during a particular period. This percentage limitation is reasonable and should allow the necessary flexibility to respond to industry needs. The committee should have the authority to set a smaller percentage or provide for no allotment for loan repayment depending on market conditions.

It is contemplated that the committee would notify the lending handler of any prospective default of an allotment loan. Such handler would file an appropriate request with the committee for repayment of such loan. There may be occasions when the amount requested for loan repayment exceeds the amount available. Under such circumstances, the repayments granted by the committee should be apportioned among requesting handlers so that the amount received by each requesting handler bears the same ratio to the total repayment approved as each requesting handler's average weekly picks bears to the total of all requesting handlers' average weekly picks for the prorate period. This procedure should provide an equitable basis for allocation of the special allotment. However, as hereinafter set forth, the committee should be authorized to recommend a different method of apportionment of the special allotment as may be necessary to promote equity among handlers.

Section 910.59 provides that a handler may loan allotment directly to other handlers within the same district (i.e. intradistrict loans), or may request the committee to do the same. This section further provides that a handler desiring to loan allotment to handlers in another district (i.e. interdistrict loans) shall request the committee to arrange the loan. On occasion, handlers have borrowed allotment to such an extent as to become unable to repay the loan. To correct this problem, the committee has imposed a limitation on the amount of allotment which handlers can borrow to not more than 25 percent of the allotment which the committee estimates the handler will earn during the period in which the loan obligation will be repaid. This has provided a sound basis for the committee to determine whether a handler may reasonably be able to repay the prospective loan. The record indicates that this percentage limitation should be adopted and apply to both intradistrict and interdistrict loans. Inclusion of such limitation on borrowing allotment should provide a reasonable standard to govern the action of the committee and § 910.59 should be amended accordingly.

Section 910.59 should authorize the committee to recommend, and the Secretary to approve, rules and regulations to administer these provisions. Such rules may provide for modification of the various amounts, time periods and percentages specified in § 910.59.

One witness opposed the changes to § 910.59 and indicated that the conclusions were not supported. However, it is found that the recommended changes are supported in the record.

(24) Under the order the production area is divided into 3 districts to recognize general differences in production, maturity, harvesting, and shipping patterns among different geographical areas within the production area. The testimony indicates that Monterey County was originally included in District 1 at a time when lemons were not commercially produced in that county. Since that time about 140 acres of lemon trees have been planted in Monterey County, of which about 67 acres are currently in production. It has been found that the maturity and harvesting practices of lemons grown in Monterey County are more similar to those in District 2 than in District 1. Lemons grown in District 2 generally mature and are harvested throughout the year, whereas District 1 lemons mature and are primarily harvested during the winter and spring months. Furthermore, inclusion of Monterey County in District 2 would facilitate allotment loans between handlers because of similar harvesting and shipping periods. Therefore, the order should be amended to realign the boundaries of Districts 1 and 2, as hereinafter set forth.

(25) The order should be amended to require that a referendum be held no later than May 31, 1989, and each six years thereafter, to ascertain if growers favor continuation of the order. The record indicates that if a referendum was held on continuance of the order at some time during any 6-year period, then the order should provide that the next periodic referendum should be held 6 years after the latest referendum. Testimony indicates that the recommendation for the inclusion of mandatory referenda in the order reflects a consensus of the views of growers in the production area, although different proposals were offered as to the interval between referenda.

Testimony was presented by a lemon grower-handler that the order be amended to provide that a mandatory continuance referendum to be held not less than every 3 years. This witness also proposed that the order should provide for a mandatory continuance referendum within 120 days from the date the committee receives and certifies a petition signed by at least 5 percent of the lemon growers requesting such referendum. However, the record indicates that a petition signed by 5 percent of the growers should not mandate that the Secretary hold a continuance referendum. Rather, the Department should consider conducting a continuance referendum whenever a significant number of the growers in the production area requested such a referendum. Testimony was also presented favoring a referendum every 5 years.

Based upon the testimony and evidence submitted at the hearing relative to the matter of periodic referenda, the order should be amended to include such a requirement. However, a 3 or 5 year interval between referenda may be too short a period, in that the level of grower support for the order has not been subject to dramatic changes over such period, and in the event some dramatic change was to occur, the committee would still have the option of requesting a referendum at any time. The initial referendum on continuance of the order should be held no later than May 31, 1989. This will allow adequate time for growers to evaluate the effects of these amendments to the marketing order and determine whether continuation of this regulatory program is warranted.

The order provides that the Secretary shall terminate the program if a majority of all producers favor termination and such majority produced more than 50 percent of the lemons for market. Since less than 50 percent of all growers usually participate in a referendum, it is difficult to determine producer support for termination of an order. In order to provide a basis for determining whether producers favor continuance of the order, requirements should be specified based on the number of producers voting in a continuance referendum. Such requirements should be the same percentages set forth in § 8(c)(8) of the act with respect to producer approval of the issuance of a marketing agreement and order regulating the handling of California citrus fruits. This section requires approval by three-fourths of the producers or by producers who have produced two-thirds of the volume of production during a representative period. This is an appropriate basis for ascertaining whether lemon growers favor continuation of the program. In the event that the requisite majority of producers, by number or volume of production represented in the referendum do not approve continuation of the order, the Secretary should consider termination of the order. In reaching such a determination, the Secretary should consider the results of the continuance referendum and other information. In that regard the Secretary may solicit input from the public through meetings, press releases, or any other means, on the appropriateness of continuing the order. In any event, the Secretary shall terminate the order whenever the Secretary finds that a majority of all producers favor termination and such majority produced more than 50 percent of the lemons for market. To be effective, termination of the order should be announced on or before July 31 of the then current fiscal year. This date precedes the beginning of committee operations for a new fiscal year and is considered to be appropriate under the circumstances.

A proposal was advanced to provide for a separate termination referendum for Arizona lemon producers. However, under the terms of the marketing order and the act, a referendum to determine whether termination of the order is favored by producers must include all producers within the defined production area. Therefore, the proposal to provide for a separate referendum for Arizona producers is not consistent with the act and is denied.

(26) The record indicates that the language in § 910.70 *Weekly report* and § 910.71 *Other reports* should be revised to replace the word "handler" with the words "person who first handles lemons", to more precisely identify the person responsible for filing the weekly report. This would be consistent with the current practice of requiring only the first person who handles lemons to file the required report. It would avoid the reporting of the same information more than once on the same lemons. Section 910.70(c), which lists certain information which is required to be included in the weekly report, should be revised to delete the informational requirement which reads "quantity sold or transported for consumption in fresh form in California or Arizona", and add the phrase "quantity exported". The record indicates that there is no longer a substantial need for reports of shipments of lemons to the fresh market in California and Arizona. Therefore, this requirement should be deleted. On the other hand, the requirement to report export shipments should be expressly prescribed, as lemon exports comprise a significant component of the fresh utilization of lemons. As the reporting of export shipments is currently required under § 910.70(e), no additional reporting requirements would be added to the order. Such change is solely intended to make the order provisions more explicit.

The brief filed by Exeter indicated that there is selective enforcement of reporting requirements. Reference is made to the fact that a marketing organization may market lemons for various handlers but only the individual handlers file reports with the committee. As indicated, the intent of the order is that the first person who handles lemons files the required reports. This is consistent with the objective of avoiding duplicative reports by handlers and the marketing organization which markets lemons for such handlers. The charge that provisions of the order are selectively enforced is without merit.

A proposal was advanced which would authorize the committee to remove any handler from the prorate base for failing to file required reports under § 910.70 in a timely manner. Testimony established that nonreporting by a handler distorts the preparation of prorate bases for handlers inasmuch as prorate bases are based on handler reports of picks and deliveries of lemons. However, the record indicates that the proposed provision may have an adverse impact on growers because a handler removed from the prorate base would have no allotment to handle the grower's lemons. Under these circumstances, the grower would be required to secure another handler to market the grower's lemons which, according to the record, could be a difficult if not an impossible task under certain circumstances, e.g. contractural arrangements between a handler and grower. Removal of a handler from the prorate base for nonreporting appears to be an extraordinary remedy which could adversely impact on growers. The act provides for both criminal and civil actions against a handler who does not file reports with the committee in a timely manner and these sanctions are deemed adequate under the circumstances. Under the order, a handler who does not file an application for a prorate base and allotment receives no consideration by the committee for such base and allotment. Moreover, absent a handler's weekly report of picks and deliveries of lemons and other information necessary to compute a prorate base and issue and adjust allotment to the handler, the committee would have insufficient information to make such computations and adjustments. Therefore, it is concluded that the proposal is unnecessary and it is not recommended.

Testimony was presented supporting the addition of a new § 910.72 to the order relating to verification of reports and records. Since information is often needed by the Secretary or the committee with respect to compliance or other matters, handlers should be required to maintain for each fiscal year complete records of their handling and disposition of lemons. The order makes the committee responsible for a number of duties involving both its ministerial and enforcement functions. Among these is the duty to investigate compliance with the provisions of the order. Handlers should therefore be required to maintain records and such records should be retained for not less

than 3 succeeding years. The committee, with the approval of the Secretary, would prescribe the types of records to be maintained, as well as the information to be contained therein, i.e. names and addresses of growers for use in referenda, mail balloting or other authorized purposes; books, papers, copies of income-tax reports or other records which would enable the committee to determine the picking, handling and disposition of lemons under the control of individual handlers. The committee, with the approval of the Secretary, may require handlers to file reports with the committee detailing any information required to be maintained under this section. Furthermore, the committee, through its duly authorized employees, and at any time during reasonable business hours, should be permitted to examine any lemons held by a handler. The physical examination of lemons should assist the committee in calculating each handler's prorate base, as the prorate base is predicated on the quantity of lemons picked and delivered to the handler, and to assist in the verification of reports filed with the committee.

Testimony in opposition to the proposal stressed that recordkeeping requirements would be burdensome and costly to handlers. However, evidence suggests that handlers in the normal course of business maintain records which would substantiate reports filed with the committee and any additional burden would be minimal.

The order should be amended by added a new § 910.73 pertaining to confidential information. Any reports and records submitted for committee use by handlers should remain under protective classification and be disclosed by the committee to no one other than the Secretary or persons authorized to receive such information by the Secretary. Under certain circumstances, the release of information with respect to the handling of lemons may be helpful to the committee and the industry generally in planning for operations under the order during the season. However, such reported information may not be released by the committee, other than on a composite basis, and such release of information should disclose neither the identity of the handlers nor their individual operations. This is necessary to prevent the disclosure of information which may detrimentally affect the trade or financial position, or business operations of individual handlers. Such confidentiality of information shall be maintained except as necessary for the committee to carry out its specific duties and responsibilities under the order.

(27) Section 910.8 of the order should be amended to revise the term "carload" to mean a quantity of lemons equivalent to 1,000 cartons of lemons or such other quantity of lemons as may be established by the committee with the approval of the Secretary. Such amendment is necessary to reflect current industry practices and incorporate changes previously made effective in § 910.100(c) of the administrative rules and regulations established under the order.

The definition of the term "fiscal year" should be revised as hereinafter set forth. Currently, the term "fiscal year" is defined as the 12-month period beginning on August 1 of each year and ending July 31 of the following year. As hereinafter discussed, the term "fiscal year" should be defined to mean the 12-month period beginning on September 1 of each year and ending August 31 of the following year.

Harvesting of lemons in District 3 (Arizona and the desert area of California) usually begins early in September and this is the period that the industry refers to as the beginning of a new season. The 12-month fiscal period beginning September 1 would be more appropriate in the operation of the program as a more accurate estimate of the lemon crop is then available. New crop lemons are generally green in July and August and sizes may be extremely small. These conditions contribute to problems in making an accurate estimate of the crop. This crop estimate is used by the committee in preparing its marketing policy for the season. Moreover, the volume of lemons in storage for future shipment is usually at a low point near September 1 of each year. Therefore, a 12-month period beginning September 1 would be an appropriate date for the beginning of a fiscal year. The new period will also coincide with the same date that is proposed for the term of office for committee members.

This amendment may not be made effective, if at all, until the 1985–86 fiscal year or later. Therefore, the committee should be empowered to recommend that the 1985–86 fiscal year or the subsequent year be designated as a 13-month fiscal year. This would be necessary to recognize the new fiscal period which begins one month later than the current period and permit a transition in the committee's fiscal operations. Also, it may develop at some time in the future for the convenience of management, or for other good and sufficient reasons not now apparent, that it may be desirable to establish a fiscal period other than one beginning September 1. For these reasons, authority should be included in § 910.10 to provide for the establishment of a different period, subject to approval by the Secretary pursuant to recommendation of the committee.

A proposal was made to define the terms "marketing organization" and "marketing". This proposal was intended to clarify eligibility to nominate committee members and eligibility to serve on the committee. Such eligibility requirements should be prescribed. However, it would be appropriate to accomplish this through an informal rulemaking proceeding which could be initiated promptly. There have been significant changes in the lemon industry in the marketing of lemons by cooperative-type organizations and the potential exists for future changes which could affect membership eligibility. The proposal to incorporate these definitions into the order could render the order inflexible with respect to recognizing changes in the structure of marketing organizations in the industry. Therefore, this proposed amendment to the order is denied.

(28) Testimony was presented by the Department at the hearing on the proposed issuance of a marketing agreement, which handlers would have the option of signing. All the testimony received on this proposal favored issuance of such a marketing agreement. Therefore, a marketing agreement should be issued to be identical to the current marketing order for lemons, as recommended to be further amended, and including §§ 910.93, 910.94, and 910.95, hereinafter set forth.

(29) A proposal in the notice of hearing by the Department was that consideration be given to making such other changes in the order as may be necessary to make the entire order conform to any amendments that may result from this proceeding. This proposal was supported at the hearing without opposition, and such changes as are necessary are incorporated into the order.

Rulings on Briefs of Interested Persons.

At the conclusion of the February 1983, session of the hearing, the Administrative Law Judge fixed May 16, 1983, as the final date for interested persons to file proposed findings and conclusions, and written arguments or briefs, based on the evidence received at the hearing. Such date was extended by the Administrative Law Judge to June 6, 1983.

Briefs and proposed findings and conclusions were filed within the prescribed time period by Julian B. Heron, Jr., Counsel on behalf of the California-Arizona Citrus League, Van Nuys, California; Stephen P. Shadle, Counsel on behalf of the Lemon Administrative Committee, Los Angeles, California: N.J. Reibe, N.J. Reibe Enterprises, Inc., Yuma, Arizona; and Linda A. Netzer, Counsel on behalf of Exeter Orange Company, Inc., Exeter, California. A brief relating to this proceeding was filed June 27, 1983, which was after the latest date fixed for filing briefs, and therefore, was not considered.

At the conclusion of the February 1984, session of the hearing, the Administrative Law Judge fixed July 16, 1984, as the final date for interested persons to file proposed findings and conclusions, and written arguments or briefs, based on the evidence received at this session of the hearing. Such date was extended by the Department of Agriculture to September 14, 1984, and subsequently further extended to October 15, 1984.

Briefs and proposed findings and conclusions were filed within the prescribed time period by R.E. Herrick on behalf of Belridge Farms, Bakersfield, Califirnia; Tom C. Cole, counsel on behalf of Tom C. Cole, Dave Roddick and Ehud Ariav, Yuma, Arizona; Harry M. Snyder, counsel on behalf of Consumers Union, San Francisco, California; Paul D. Cullen and Jeanne M. Forch, counsel for Sam Perricone, Los Angeles, California, and Ehud Ariav, Dave Roddick and Michael Weatherwac, Yuma, Arizona; Stephen P. Shadle, counsel for the Lemon Administrative Committee, Los Angeles, California; Julian B Heron, Jr., Edward M. Ruckert, and Christine C. Ryan, counsel for Sunkist Growers, Inc., Van Nuys, California; the U.S. Department of Justice; the U.S. Small Business Administration; and U.S. Senator Barry Goldwater.

These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth herein. To the extent that any suggested findings or conclusions filed by interested persons are inconsistent with the findings and conclusions set forth herein, the request to make such findings or to reach such conclusions is denied.

General Findings

Upon the basis of the record it is found that:

(1) The findings hereinafter set forth are supplementary, and in addition to the previous findings and determinations which were made in connection with the issuance of the order and previous issued amendments thereto. Except when such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed:

(2) The proposed marketing agreement, and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(3) The proposed marketing agreement, and order, as amended, and as hereby proposed to be further amended, regulate the handling of lemons grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial or industrial activity specified in, the proposed marketing agreement, and the order upon which hearings have been held;

(4) The proposed marketing agreement, and the order, as amended, and as hereby proposed to be further amended, are limited in its application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act.

(5) The proposed marketing agreement, and the order, as amended and as hereby proposed to be further amended, prescribe, so far as practicable, such different terms, applicable to different parts of the production area as are necessary to give due recognition to differences in the production and marketing of lemons grown in the production area; and

(6) All handling of lemons grown in the production area as defined in the proposed marketing agreement, and the order, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

List of Subjects in Part 910

Lemons, California, Arizona, Marketing agreements and orders.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Recommended Further Amendment of the Marketing Order, and Issuance of a Marketing Agreement. The following amendment of the amended marketing order and the issuance of a marketing agreement is recommended as the detailed means by which the foregoing conclusions may be carried out:

1. The authority citation for Part 910 continues to read:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 910.8 is revised to read as follows:

§ 910.8 Carload.

"Carload" means a quantity of lemons equivalent to 1,000 cartons of lemons, or such other quantity of lemons as may be established by the committee with the approval of the Secretary.

3. Section 910.10 is revised to read as follows:

§ 910.10 Fiscal year.

"Fiscal year" means the 12-month period beginning on September 1 of each year and ending August 31 of the following year, or such other period as may be established by the committee with the approval of the Secretary.

4. Section 910.20 is amended by revising paragraphs (a) and (b), by redesignating current paragraph (c) as paragraph (d), and adding a new paragraph (c); to read as follows:

§ 910.20 Establishment and membership.

(a) There is hereby established a Lemon Administrative Committee consisting of 13 members. For each member there shall be an alternate member, and for each grower and handler member an additional alternate member, and the provisions of §§ 910.20 through 910.26, unless they specifically provide otherwise, shall apply to members, alternate members, and additional alternate members in like manner. Further, references to "member" therein shall be deemed to include alternates and additional alternates unless the context indicates otherwise. Eight of the members shall be growers and shall be referred to in this part as "grower" members; 4 of the members shall be handlers, employees of handlers, or employees of marketing organizations and shall be referred to in this part as "handler" members. One member of the committee shall be a public member who shall meet the qualifications specified in paragraph (c) of this section.

(b) Except as otherwise provided pursuant to § 910.22(h), the grower members of the committee shall be nominated by prorate district and group, in accordance with the following schedules:

	Co-op more than 60 percent	Other Co-ops	Independents
District 1	1	0	0
District 2	2	1	1
District 3	1	0	2

(c) The public member and the alternate public member shall have no financial interest in or be associated with production, processing, financing, or marketing (except as consumers) of lemons. They should be able to devote sufficient time and express a willingness to attend committee activities regularly, and to familiarize themselves with the background and economics of the industry. They must be residents of the production area.

(d) * * *

5. Section 910.21 is revised to read as follows:

§ 910.21 Term of office.

The term of office of committee members shall be a period of two years, and such period shall begin on September 1 of the year in which nominations are held: *Provided,* That one-half of the members nominated for the term of office beginning September 1, 1986, shall be nominated for a one-year term of office, ending August 31, 1987. The remaining members shall be nominated for a two-year term of office ending August 31, 1988. Nominations on the committee shall be as follows for those individuals nominated for the term of office beginning on September 1, 1986:

Affiliation	2-year term	1-year term
Co-op more than 60 percent	1 District 1 Grower. 1 District 2 Grower. 1 Handler	1 District 2 Grower. 1 District 3 Grower. 1 Handler.
Other Co-ops	1 Handler	1 District 2 Grower.
Independents	1 District 2 Grower. 1 District 3 Growers.	1 District 2 Grower. 1 Handler.

In cases where one representative group nominates two handlers or two growers from the same district, the determination of which member shall serve a one-year term and which member shall serve a two-year term shall be by lot. Should producer affiliates change, requiring realloation of membership on the committee, the committee shall, with the approval of the Secretary, adopt rules and regulations which will maintain an equitable number of experienced growers from each district and experienced handlers from each marketing affiliation, on the committee, in so far as practicable. Members shall serve in such capabilities for the portion of ther term of office for which they are selected and qualify and until their respective successors are selected and have qualified. The consecutive terms of office of members, not including alternate members or additional alternate members, shall be limited to three terms. Members of the committee who have served three consecutive two-year terms as of July 31, 1986, are not eligible to serve on the committee as member until September 1, 1988. Any member selected to serve a one-year term of office from September 1, 1986, to August 31, 1987, shall not have such term of office used in the computation of length of tenure limitations.

6. Section 910.22 is amended by revising paragraphs (a), (c), (d), and (f) to read as follows:

§ 910.22 Nominations.

(a) The time and manner of nominating members of the Lemon Administrative Committee shall be prescribed by the Secretary: *Provided,* That with respect to paragraph (d) of this section, the committee, with the approval of the Secretary, shall adopt procedural rules and regulations to be observed for (1) the selection of candidates for member, alternate member, and additional alternate member nominations, and (2) the conducting of such nominations by mail balloting.

(b) * * *

(c) All cooperative marketing organizations or the growers affiliated therewith which market lemons and which are not qualified under paragraph (b) of this section shall nominate, in conformity with § 910.20, 1 grower member and 1 handler member.

(d) All growers of the group identified as independents in § 910.20 who are not affiliated with a cooperative marketing organization which markets lemons shall nominate, in conformity with § 910.20, 3 grower members and 1 handler member.

(e) * * *

(f) The grower and handler members of the committee shall nominate the public member and alternate public member by a concurring vote of at least 7 members.

* * * * *

7. Section 910.29 is revised to read as follows:

§ 910.29 Expenses and compensation.

The members of the committee, and their respective alternates when acting as members, or when in attendance pursuant to committee authorization, shall be reimbursed for expenses necessarily incurred by them in the performance of their duties and in the exercise of their powers under § 910.30, and shall receive compensation at a rate to be determined by the committee, and approved by the Secretary, which rate shall not exceed $100 for each day, or portion thereof, spent in attending meetings of the committee.

8. Section 910.33 is revised to read as follows:

§ 910.33 Marketing Research and Development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects designed to assist, improve or promote the marketing, distribution, and consumption of lemons. Such projects may provide for any form of marketing promotion, including paid advertising. The expense of such projects shall be paid from funds collected pursuant to this part.

9. A new § 910.34 is added to read as follows:

§ 910.34 Consumer Affairs Advisors.

The committee may appoint such Consumer Affairs Advisor as it deems appropriate and determine the compensation and define the duties of such advisors.

10. Section. 910.41 is amended by adding a clause to the beginning of the first sentence and revising the last sentence of paragraph (a), redesignating paragraph (b) as paragraph (c), and adding a new pargraph (b) to read as follows:

§ 910.41 Assessments.

(a) Except as provided in paragraph (b), * * * If a handler does not pay such handler's assessment within the time prescribed by the committee, the unpaid assessment may be subject to interest and late payment charges as a rate prescribed by the committee with the approval of the Secretary.

(b) The committee may, with the approval of the Secretary, establish a separate assessment rate for market promotion expenses, including paid advertising, conducted pursuant to § 910.33. Any handler who has paid assessments for market promotion expenses, including paid advertising, pursuant to this section, shall have the right to demand and receive a refund of such assessment paid up to the maximum amount authorized by the committee, subject to approval by the Secretary: *Provided,* That the committee may (1) prescribe the percentage of such assessment to be refunded to handlers up to a maximum of 90 percent of such

assessment paid by each applying handler, (2) specify the date by which a handler shall submit to the committee an application form requesting a refund of a portion of market promotion assessment paid by the handler. Such portion of assessment funds collected from such handler for market promotion expenses, including paid advertising, shall be refunded by the committee as requested by the handler not later than 30 days following the date on which the committee receives the application form requesting such refund. Subsequent to that date, the committee shall assess the handler only for the portion of market promotion assessment due the committee, as determined under this section, and (3) unexpended market promotion assessment funds may be carried over into a market promotion reserve for use in financing market promotion projects or, to the extent practicable, may be returned to handlers in proportion to the amounts collected from them pursuant to this section. Funds in such reserve may not exceed approximately one-half of one fiscal year's expenses for market promotion projects including paid advertising. Funds maintained in the operational reserve established under § 910.42 may not be used to finance any market promotion projects including paid advertising.

§ 910.50 [Amended]

11. The second sentence of 910.50 is amended by removing the word "weekly" in (c).

12. Paragraphs (a) and (c) of § 910.51 are revised and a new paragraph (d) is added to read as follows:

§ 910.51 Recommendations for regulation.

(a) It shall be the duty of the committee to investigate the supply and demand conditions for lemons. Whenever the committee finds that such conditions make it advisable to regulate, pursuant to § 910.52, the handling of lemons during any prorate period of the fiscal year, it shall recommend to the Secretary the quantity of lemons which it deems advisable to be handled from each prorate district during such prorate period. Thereafter the committee shall promptly report such findings and recommendations, together with supporting information, to the Secretary.

(b) * * *

(c) At any time during or before the beginning of a prorate period for which the Secretary, pursuant to § 910.52, has fixed the quantity of lemons which may be handled from a district during such prorate period, the committee may, if such action is deemed advisable, recommend to the Secretary that such quantity be increased for such period. Any such recommendation, together with the committee's reasons for such recommendation, shall be submitted promptly to the Secretary. The committee shall develop rules and regulations, subject to the approval of the Secretary, to prescribe criteria for recommending an increase in the quantities which may be handled during any prorate period. In the absence of such rules and regulations, no increases in such quantities are authorized.

(d) Each prorate period shall be two weeks in duration, except that the committee may institute prorate periods longer than two weeks.

13. Revise § 910.52 to read as follows:

§ 910.52 Issuance of regulations.

Whenever the Secretary shall find, from the recommendations and information submitted by the committee, or from other available information, that to limit the quantity of lemons which may be handled from a district during a specified prorate period will tend to effectuate the declared policy of the act, the Secretary shall fix such a quantity of lemons which may be so handled during such period, which quantity may at any time during or before such period, be increased by the Secretary: *Provided,* That during the June through September period of each year there shall be a minimum of eight weeks of open movement of lemon shipments from all districts. The committee shall, subject to approval of the Secretary, adopt criteria for recommendations for open movement of shipments at other times. Such regulation may be made effective, as authorized by the act, irrespective of whether the season average price for lemons is in excess of the parity price specified therefor in the act. The committee shall be informed immediately of any such regulation issued by the Secretary and shall promptly give adequate notice thereof to handlers.

14. Section 910.53 is amended in paragraph (f)(3) by removing the words "During the first 2 consecutive weeks" in the first sentence and adding "During the initial prorate period" and by revising (c), the last sentence in (d)(2), (e), (f)(1), (f)(2), (g), (h), (i)(1) and (i)(8) to read as follows:

§ 910.53 Prorate bases.

* * * * *

(c) The committee shall compute a prorate base or bases for each handler who has made application in accordance with the provisions of this section.

(d) * * *

(2) * * * On the basis of the computation of the handler's average weekly pick, the committee shall fix a prorate base for each handler who is entitled thereto. Each such prorate base shall represent the ratio between the average weekly pick for each applicant handler in a district and the total of such average weekly picks for all applicant handlers in such district.

(e) In recognition of the differences among the 3 prorate districts in production and marketing conditions, the number of weeks in a prorate base period and certification credit period shall be specified by district and such respective base periods shall apply to lemons produced in such district, even though packed or handled in another district. Until changed in the manner provided in paragraph (h) of this section, the prorate base periods for the districts shall be: 6 weeks for District 1, 12 weeks for District 2, and 4 weeks for District 3.

(f)(1) At the request of any handler of lemons produced in District 1 or 3, the committee shall adjust the average weekly pick of such handler by increasing it in the amount requested by the handler, but not exceecding 100 percent of such average. Such adjustment may be requested for any 1 or more weeks, not to exceed 8 weeks, during the period beginning with the first week of the intitial prorate base period of a season for which such handler's average weekly pick is computed and ending not later than the middle week of such handler's picking season, as determined by the committee, based upon the historical picking performance of such handler. Any adjustment so added shall be deducted from such handler's average weekly picks as computed for subsequent weeks beginning in the week following such middle week and continuing in successive weeks to assure full repayment of all prior upward adjustments. To the extent practicable, the amounts and sequences of repayments shall conform to the amounts and sequences in which upward adjustments were effected: *Provided:* That if the committee determines that an accelerated rate of repayment is necessary to effect full repayment, or the handler requests an accelerated rate of repayment, actions to effect repayment on such basis shall be in accordance with rules and regulations prescribed by the committee with the approval of the Secretary. A handler may apply to the committee to certify lemons on the tree for the purpose of using average weekly pick credits in repayment of any upward adjustments previously taken by such

handler. Adjusted average weekly picks shall be used in lieu of the average weekly picks in computing the handler's prorate base as provided in paragraphs (d) and (i) of this section. If the handler fails to achieve sufficient average weekly pick credit during the balance of the season to offset the upward adjustment, deductions from average weekly pick credits received in the following season shall not be required to effect such repayment.

(2) Any handler of lemons produced in District 2 whose picks are interrupted for a period of 4 successive weeks or more, may upon application to the committee begin a new prorate base period with the initial week of picks after such interruption, and with the average weekly picks being computed in accordance with the applicable provision of paragraph (d) of this section for the initial number of consecutive weeks in such new prorate base period. Any such handler upon application to the committee shall also receive adjustments of a character similar to those described in pargraph (f)(1) of this section subject to such conditions with respect to dates and periods of upward adjustment and payback as may be necessary or appropriate to avoid or mitigate undue hardship and to preserve equity among handlers.

* * * * *

(g) Any handler of lemons produced in any district under production or marketing conditions substantially differing from those generally prevailing in the same district, may apply to the committee for a different prorate base period, shorter or longer, than that specified for the district, but in no event less than 4 weeks nor more than 12 weeks. Such application shall be granted to the extent necessary or appropriate to give due recognition to such differences.

(h) The committee, with the approval of the Secretary, may change the number of weeks in the several time periods, may include Districts 1 and 3 under the provisions of paragraph (f)(2) of this section, may change the dates referred to in this section, and the percentage of adjustment specified in paragraph (f) of this section; and in like manner may establish rules and regulations to effectuate the provisions of this section and may modify the method or manner of making the prescribed computations.

(i) Notwithstanding any other provision of this section, the prorate base for a handler may be computed as follows:

(1) The prorate base as determined by paragraphs (d) and (f)(2) of this section shall be increased by the quantity of lemons certified under this paragraph by the committee. The quantity of lemons which may be certified for a handler in each credit period shall not exceed during any week 2.5 percent of the total estimated tree crop controlled by such handler. The committee, with the approval of the Secretary, may establish by rules and regulations a minimum quantity of lemons to be certified for each week in the credit period. The quantity of lemons certified shall be credited to the handlers' average weekly picks in equal weekly amounts for the number of weeks in the credit period.

* * * * *

(8) The committee, with the approval of the Secretary, may establish rules and regulations to effectuate the provisions of this section and may modify the method or manner of making the prescribed certification computations and may adjust the various time periods and percentages set forth herein.

15. Section 910.56 is revised by adding a new heading to the existing paragraph and designating that paragraph as paragraph (a), and adding a new paragraph (b) to read as follows:

§ 910.56 Allotments.

(a) *General Allotments.* Whenever the Secretary has fixed the quantity of lemons which may be handled during any prorate period in a prorate district as aforesaid, the committee shall calculate the quantity of lemons which each handler may handle during such period. The said quantity shall be the allotment of each such handler and shall be in an amount equal to the product of the handler's prorate base and the quantity of lemons so fixed by the Secretary for such district. The committee shall give adequate notice to each handler of the allotment computed for such handler pursuant to this section.

(b) *Marketing Incentive Allotments.* During any prorate period in which volume regulation is in effect, any handler may handle, in addition to other allotment, an amount of lemons equivalent to 10 percent of the handler's prorate period allotment in each of four separate prorate periods, and, in addition, at such other times and in such higher amounts as may be recommended by the committee and approved by the Secretary: *Provided,* That such marketing incentive allotments may not be issued to a handler during any prorate period in which such handler utilizes an exemption for special purpose shipments as described in § 910.68(a). Use of marketing incentive allotment may be made by the handler upon prior notification to the committee, *Provided,* That such notification is made prior to the prorate period in which such marketing incentive allotment is to be used. This incentive increase is in addition to the allowance for overshipments provided for in § 910.57.

§ 910.57 [Amended]

16. Amend § 910.57 by removing the word "week" and substituting the words "prorate period" in lieu thereof.

17. Section 910.58 is revised to read as follows:

§ 910.58 Undershipment.

If any person handles during any prorate period a quantity of lemons, covered by a regulation issued pursuant to § 910.52, in an amount less than the allotment of lemons for such period, such person may handle, in addition to such person's allotment for the next two succeeding weeks only, a quantity of such lemons equivalent to such undershipment: *Provided,* That with the approval of the Secretary, the committee may increase or decrease the number of weeks or prorate periods over which undershipment of allotment may be carried forward.

18. Section 910.59 is amended by revising paragraphs (a), (b), (d), and (e) to read as follows:

§ 910.59 Allotment loans.

(a) A handler for whom a prorate base has been established may lend allotment to other handlers: *Provided,* That such loan is reported to the committee not later than 48 hours after the loan agreement has been entered into, and provides for repayment within 1 year of the date of the loan. If on the date of repayment specified in the loan agreement the borrower has insufficient allotment to repay such loan, the borrower shall repay suich loan as soon after such date as the borrower has available allotment for that purpose. The committee may determine the manner and the number of weeks during which the handler's obligation shall be repaid. If a handler is no longer in business or ceases to operate in a prorate district and is therefore unable to repay a loan obligation within 1 year, the committee may establish a method by which the committee may repay such allotment loans. Loan repayments made by the foregoing method shall not exceed 2.5 percent of the quantity which the committee deems advisable to be handled for a particular week.

(b) Allotments shall be loaned only during the prorate period in which such allotments are issued and can be used

by the borrower only during the prorate period in which the loan is secured. Handlers securing repayment of allotment loans shall use such allotments only during the prorate period in which the repayment is made.

* * * * *

(d) No allotment which has been loaned may again be loaned by the borrower, or by the lender after the repayment thereof. No handler may, during any fiscal year, borrow in excess of 25 percent of the prorate base allotment which the committee estimates the handler will earn during the period in which such loan obligations will be repaid.

(e) The committee, with the approval of the Secretary, may adopt procedural rules and regulations to effectuate the provisions of this section, and may modify the various amounts, time periods, and percentages set forth in paragraphs (a) and (d) of this section.

§ 910.61 [Amended]

19. Amend § 910.61 by removing the words "week" and "weekly" and substituting the words "prorate period" in lieu thereof.

20. Section 910.64 is amended by revising paragraphs (a) and (b) to read as follows:

§ 910.64 Districts.

* * * * *

(a) "District 1" shall include that part of the State of California which is south of a line drawn due east and west through the present post office in Turlock, California, and north of a line drawn due east and west through the present post office in Gorman, California, and west of the extension of a line drawn due north and south through the present post office in White Water, California, but excluding San Luis Obispo, Santa Barbara, and Monterey Counties.

(b) "District 2" shall include that part of the State of California west of a line drawn due north and south through the present post office in White Water, California, and south of a line drawn due east and west through the present post offfice in Gorman, California, but including San Luis Obispo, Santa Barbara, and Monterey counties.

§ 910.66 [Amended]

21. Amend § 910.66 by removing the words "week" and "weekly" and substituting the word "prorate period" in lieu thereof.

22. A new § 910.68 is added to read as follows:

§ 910.68 Special Purpose Shipment.

(a) Upon the basis of recommendations by the committee, or from other available information, the Secretary shall relieve from any and all requirements, under or established pursuant to §§ 910.52, 910.53, and 910.56, the handling of lemons for the purposes of market research and development; promotional opportunities; technological innovation, including shrink-wrapped or irradiated lemons; limited market outlets, including organically grown lemons; or other uses. Such relief shall be for a minimum of 10 percent of a handlers cumulative prorate allotments or 5,000 cartons, whichever is greater: *Provided,* That the committee, with the approval of the Secretary, may revise such minimum percentage or number of cartons for each specified use: *Provided further,* That such minimums shall in no case be less than 10 percent or 5,000 cartons for all uses cumulatively.

(b) *Premium Quality Lemons.* (1) Shipments of lemons which are inspected and certified as meeting the requirements of the U.S. No. 1 grade as defined in the U.S. Standards for Grades of Fresh Lemons (7 CFR Parts 51.2795–51.2821) shall be exempt from the requirements contained in §§ 910.52, 910.53 and 910.56, each year during the months of June, July, August and September and at such other times and in such districts as the committee, subject to the approval of the Secretary, may recommend. The committee may recommend, and the Secretary may approve, modifications of such standards or develop such other minimum standards as are necessary to insure adequate levels of shipments of premium quality lemons.

(2) Whenever the handling of premium quality lemons is exempted pursuant to this section, each handler who desires to qualify for such exemption shall, prior thereto, cause each lot of lemons for which exemption is requested to be inspected by the Federal-State inspection service and certified by it as meeting the applicable requirements specified pursuant to this section. Promptly thereafter, each such handler shall submit, or cause to be submitted, to the committee a copy of the certificate of inspection with respect to such handling. The committee may, with the approval of the Secretary, prescribe rules and regulations modifying the inspection requirements of this section as to time and place such inspection shall be performed whenever it is determined it would not be practical to perform the required inspection at a particular location: *Provided,* That all such shipments shall comply with the minimum grade standards in effect.

(c) The committee, with the approval of the Secretary, may prescribe such rules, regulations, and safeguards as it may deem necessary to prevent lemons handled under the provisions of this section from entering channels of trade for other than the purposes authorized by this section. Such rules, regulations, and safeguards may include the requirements that handlers shall file applications with the committee for authorization to handle lemons pursuant to this section, and that such applications be accompanied by a certification by the submitting handlers that the lemons will not be used for any purpose not authorized by this section.

23. Section 910.70 is revised to read as follows:

§ 910.70 Weekly report.

On or before such day of each prorate period as may be designated by the committee, each person who first handles lemons shall report to the committee, on forms prepared by it, the following information with respect to lemons marketed by such handler during the immediately preceding week: (a) quantity handled; (b) quantity shipped for distribution to persons on relief, including quantity donated for charitable purposes; (c) quantity exported; (d) quantity sold or otherwise disposed of for canning or manufacturing into byproducts; and (e) quantity disposed of otherwise.

24. Section 910.71 is revised to read as follows:

§ 910.71 Other reports.

Upon request of the committee made with the approval of the Secretary, each person who first handles lemons shall furnish to the committee, in such manner and at such times as it prescribes (in addition to such other reports as are specifically provided for in § 910.70), such other information, including reports or records required to be maintained under § 910.72, as will enable the committee to perform its duties and to exercise its powers under this subpart.

25. A new § 910.72 is added to read as follows:

§ 910.72 Verification of reports and records.

For the purpose of checking compliance with recordkeeping requirements and verifying reports filed by handlers, the Secretary, and the committee through its duly authorized employees, and at any time during

reasonable business hours, shall be permitted to examine any lemons held and any and all records with respect to matters within the purview of this part. Handlers shall furnish such assistance necessary to facilitate such examinations at no expense to the committee. All handlers shall establish and maintain complete records which accurately show the quantity of lemons handled and disposed of. The committee, with the approval of the Secretary, may establish the type of records to be maintained. Such records shall be retained by handlers for not less than 3 years subsequent to the termination of such crop year.

26. A new § 910.73 is added to read as follows:

§ 910.73 Confidential information.

All reports and information submitted by handlers pursuant to the provisions of this part shall be received by and at all times be in the custody of one or more designated employees of the committee. No such employees shall disclose to any person, other than the Secretary or to the Secretary's designees, upon request therefor, data or information obtained or extracted from such reports and records which might affect the trade position, financial condition, or business operation of the particular handler from whom received: *Provided*, That such data and information may be combined, and made available in the form of general reports in which the identities of the individual handlers furnishing the information is not disclosed; *Provided further*, That any handler may file a written authorization to permit the committee to release such handler's information to any persons or marketing organization.

27. Amend § 910.81 by removing the word "week" and substituting the word "prorate period" in lieu thereof.

28. Revise § 910.84 to read as follows:

§ 910.84 Termination.

(a) The Secretary may, at any time, terminate the provisions of this subpart by giving at least one day's notice by means of a press release or in any other manner which the Secretary may determine.

(b) The Secretary may terminate or suspend the operations of any or all of the provisions of this subpart whenever the Secretary finds that such provisions do not tend to effectuate the declared policy or the act.

(c) The Secretary may terminate the provisions of this subpart at the end of any fiscal year in which the Secretary has found by referendum or otherwise that continuance of this subpart is not favored by producers who, during a representation period determined by the Secretary, have been engaged in the production for market of lemons in the production area. To determine whether continuance is favored by producers, the required percentages set forth in the act with respect to producer approval of the issuance of a marketing agreement and order regulating the handling of citrus fruits producted in any area producing what is known as California citrus fruits (approval by three-fourths of the producers who, during a representation period, determined by the Secretary, have been engaged, within the production area, in the production of lemons for market or by producers who, during such representation period, have produced for market at least two-thirds of the volume of lemons produced within the production area for market) shall be used. Such required percentages for continuance shall be held to be complied with if, of the total number of producers, or the total volume of lemons produced for market, as the case may be, represented in such referendum, the percentage favoring continuance is equal to or in excess of the percentage required: *Provided*, That, the Secretary shall terminate the provisions of this subpart at the end of any fiscal year whenever the Secretary finds that such termination is favored by a majority of producers who, during a representative period, have been engaged in the production for market of lemons if such majority has, during such period, produced for market more than 50 percent of the volume of such lemons produced for market; *Provided further*, that termination of the order shall be effective only if announced on or before July 31 of the then current fiscal year.

(d) The Secretary shall conduct a referendum no later than May 31, 1989, and no later than May 31, every sixth year thereafter to find whether, in accordance with paragraph (c) of this section, continuance of the order is favored by producers: *Provided*, That if a continuance referendum is held within any six year period of time, as herein provided, the next referendum shall be held not later than May 31 of the sixth year following such referendum.

(e) The provisions of this part shall, in any event terminate whenever the provisions of the act authorizing them cease to be in effect.

29. Section 910.93, which applies only to the marketing agreement, is added to read as follows:

§ 910.93 Counterparts.

This agreement may be executed in mutiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signature were contained on one original.

30. Section 910.94, which applies only to the marketing agreement, is added to read as follows:

§ 910.94 Additional parties.

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by such handler and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.

31. Section 910.95, which applies only to the marketing agreement, is added to read as follows:

§ 910.95 Order with marketing agreement.

Each signatory handlers hereby requests the Secretary to issue, pursuant to the Act, an order providing for regulating the handling of lemons in the same manner as is provided for in this agreement.

Dated: July 31, 1985.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 85-18529 Filed 8-2-85; 3:59 pm]

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DEPARTMENT OF TREASURY

Customs Service

19 CFR Parts 111 and 171

Proposed Customs Regulations Amendments Relating to Customs Brokers

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: The Trade and Tariff Act of 1984 made numerous changes to the statutory provisions relating to the regulation of customs brokers. Among these changes were the creation of a single license for each customs broker and separate permits to operate in each Customs district, a listing of specific grounds for suspension or revocation of a license or permit, creation of a monetary penalty and specific procedures to be followed when an action is initiated to suspend or revoke a

license or assess a monetary penalty. This document proposes to amend the Customs Regulations to implement the statutory changes made by the Trade and Tariff Act of 1984.

In addition, prior to the passage of the Trade and Tariff Act, a Customs Headquarters Task Force on broker licensing and regulation was established to make a comprehensive study of the laws and regulations administered by Customs which relate to licensed brokers and to make recommendations for regulatory amendments. This document further proposes to amend the Customs Regulations based upon the recommendations of the Task Force.

DATE: Comments must be received on or before November 5, 1985.

ADDRESS: Comments (preferably in triplicate) may be submitted to and inspected at the Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229. Comments relating to the information collection aspects of the proposal should be addressed to Customs, as noted above, and also the Office of Information and Regulatory Affairs, Attention: Desk officer for U.S. Customs Service, Office of Management and Budget, Washington, D.C. 20503

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter or Fred Burns O'Brien, Entry, Licensing and Restricted Merchandise Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229; 202-566-5765.

SUPPLEMENTARY INFORMATION:

Background

A customs broker ("broker") is a person who is licensed by the Customs Service ("Customs") to transact Customs business on behalf of importers and other persons. Under section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), the Secretary of the Treasury may prescribe rules and regulations governing the licensing as brokers of citizens of the U.S. of good moral character, and of corporations, associations, and partnerships. Rules and regulations also may be prescribed as necessary to protect importers and the revenue of the U.S., to include the keeping of books, accounts, and records by brokers, and the inspection of these and related papers, documents, and correspondence by any duly accredited agent of the U.S. Part 111, Customs Regulations (19 CFR Part 111), contains the regulations prescribed by the Secretary relating to the licensing of brokers and their duties and responsibilities.

A Customs Headquarters Task Force on broker licensing and regulations (Task Force) was established to make a comprehensive study of the laws and regulations administered by Customs which relate to brokers and to make recommendations for regulatory amendments.

Based upon the recommendations of the Task Force for regulations changes, on April 7, 1983, Customs published a notice of the **Federal Register** (48 FR 15154), proposing amendments to Part 111, Customs Regulations.

On October 30, 1984, the President signed Pub. L. 98-573, the Trade and Tariff Act of 1984 (the Act). Section 212 of the Act made substantial revisions to section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), relating to customs brokers. Among the changes were the creation of a single license for each customs broker and separate permits to operate in each Customs district, a listing of specific grounds for suspension or revocation of a license or permit, creation of a monetary penalty and specific procedures to be followed when an action is initiated to suspend or revoke a license or assess a monetary penalty. A more detailed discussion of the various provisions of the Act relating to brokers is set forth below.

In light of the new brokers statute it has been decided to again publish the recommendations of the Task Force which were the subject of proposed amendments set forth in the **Federal Register** on April 7, 1983, as proposed amendments to the Customs Regulations, along with the amendments necessary as a result of the Act.

Discussion of Proposed Amendments

1. Prior to the Act, section 641, Tariff Act of 1930, as amended (Tariff Act), and the various predecessor provisions relating to customs brokers referred to brokers as customhouse brokers. This was in recognition of the fact that historically the business of the broker was conducted at the customhouse. In this day and age this is no longer the case. The Act refers to brokers as customs brokers. Accordingly, it is proposed to amend the heading and text of Part 111 to remove the words "customhouse brokers" or "customhouse broker" and substitute the words "customs brokers" or customs broker" wherever necessary.

2. Section 111.0, Customs Regulations (19 CFR 111.0), sets forth the scope of Part 111. It is proposed to modify this section to identify those major areas of section 641 which are the subject of detailed regulations. For example, it is proposed to modify the scope provision to include reference to the new provisions relating to permits and the assessment of monetary penalties.

3. Definitions of various terms are contained in § 111.1, Customs Regulations (19 CFR 111.1).

Section 641(a)(2), Tariff Act, as amended by the Act, defines the term "Customs business". That phrase means those activities involving transactions with Customs concerning the entry and admissibility of merchandise, its classification and valuation, the payment of duties, taxes, or other charges assessed or collected by Custom upon merchandise by reason of its importation, or the refund, rebate, or drawback thereof. This definition is incorporated in a new proposed § 111.1(c). As a result of this proposal, existing paragraphs (c), (d), (e), (f) and (g) of § 111.1 would be redesignated as paragraphs (d), (e), (f), (g) and (h), respectively.

4. Existing § 111.1(e), Customs Regulations (19 CFR 111.(e)) (proposed redesignated § 111.1(f)), defines the term "Books and papers" as including "all books, accounts, records, papers, documents, powers of attorney, data processing materials (other than cards, magnetic tapes and discs, and incidental intermediate forms temporary in nature), and correspondence of a broker relating to his Customs business."

Based upon the recordkeeping provision of section 508 of Pub. L. 95-410, the "Customs Procedural Reform and Simplification Act of 1978," Customs, by T.D. 79-159, which was published in the **Federal Register** on June 4, 1979 (44 FR 31962), amended its regulations to define the term "records" in § 162.1a(a), Customs Regulations (19 CFR 162.1a(a)). Because of that amendment, Customs proposes to amend § 111.1(e) (proposed redesignated § 111.1(f)) to define "records" as those documents identified in § 162.1a, Customs Regulations, and Rept as provided in § 162.1b, Customs Regulations (19 CFR 162.1b).

It is also proposed to make conforming amendments to §§ 111.21, 111.22, 111.23, 111.24, 111.25, 111.26, 111.27, and 111.30, Customs Regulations (19 CFR 111.21, 111.22, 111.23, 111.24, 111.25, 111.26, 111.27 and 111.30), to remove references to "Book and paper" or "Books and papers" and substitute "records" or "record", as appropriate.

5. Section 641(b), Tariff Act, as amended by the Act, provides for the issuing of licenses to individuals and corporations, associations and partnerships if at least one member of the particular business entity holds a valid brokers license.

Section 641(c), Tariff Act, as amended by the Act, established a requirement for a permit for each district in which the broker intends to operate.

In order to implement the above requirement for a permit it is proposed to include references to a permit in §§ 111.0, 111.2, 111.4, 111.11(b)(2), 111.11(c)(3), 111.37, 111.43, and 111.51, Customs Regulations (19 CFR 111.0, 111.2, 111.4, 111.11(b)(2), 111.11(c)(3), 111.37, 111.43, and 111.51).

It is proposed to substantially revise §111.19, Customs Regulations (19 CFR 111.19), relating to licenses for additional districts to reflect the changes in the law regarding the requirements for permits.

It should be noted that section 214(d)(2) of the Act provides that a brokers license in effect on the date of enactment of the Act (i.e. October 30, 1984) will continue in force as a license to transact customs business as a broker and that licenses will be accepted as permits for the district or districts covered by that license. However, section 214(d)(1) provides that section 212 of the Act (i.e. the amended section 641, Tariff Act) will take effect upon the close of the 180th day following the October 30, 1984, date of enactment (i.e. April 29, 1985). The Act is silent regarding the treatment of licenses issued between the date of enactment (i.e. October 30, 1984) and the effective date of the revised section 641 (i.e. April 29, 1985). As a result of these two effective date provisions a broker issued a license between October 30, 1984, and April 29, 1985, could be considered not to hold a valid customs brokers license on or after April 29, 1985. A broker in such circumstances could also be considered to be in violation of section 641(b)(8) relating to transacting customs business without a valid license.

While Customs believes a person licensed during this interim period should be treated the same as a person who held a license on October 30, 1984, a technical amendment will be submitted to the Congress to eliminate any doubt about the matter. Accordingly, it is Customs' present position that a brokers license in effect on April 28, 1985, held by an individual or organization (i.e. partnership, corporation or association), on or after April 29, 1985, will be recognized as a national customs brokers license to transact customs business as a customs broker. If an individual or organization on April 28, 1984, held more than one customs brokers license, all licenses held by that individual or organization will merge into one national license. For administrative and operational control, the license in effect on April 28, 1985, with the earliest issue date will be the license into which the later issued licenses will merge unless the broker specifically requests that a different license be used. If the broker wants its licenses to merge into a license other than the license with the earliest date of issue, he must advise both the district director of the district which issued the license with the earliest effective date and the district director of the district which issued the license he wants as the site for his national license.

All brokers licenses in effect on April 28, 1985, will, on April 29, 1985, be accepted as permits to transact customs business as a broker for the district or districts covered by that license.

6. Section 641(b)(2), Tariff Act, as amended by the Act, modified the requirement that two officers of the partnership, corporation or association be licensed brokers. Under the new law only one licensed broker is required.

In order to implement this change it is proposed to amend §§ 111.11 (b)(1) and (c)(2), Customs Regulations (19 CFR 111.11 (b)(1) and (c)(2)), to remove the requirement for two licensed brokers.

7. Section 641(b)(2), Tariff Act, as amended by the Act, codified the existing regulatory requirement for an examination of applicants for a broker license found in § 111.13, Customs Regulations (19 CFR 111.13). Because of the above discussed modification to section 641, Tariff Act, which changed the number of licensed brokers necessary to qualify a partnership corporation or association for a brokers license from two to one, it is necessary to modify the procedure for a special examination for a brokers license in the event that a partnership, corporation or association loses its qualifying broker before the next scheduled examination. Further, it is proposed to amend § 111.13(c), Customs Regulations, relating to special examinations, by changing the reference from two licensed members or officers to one licensed member or officer.

8. Section 111.11(a)(4), Customs Regulations (19 CFR 111.11(a)(4)), states that an applicant for an individual license must establish through an examination that he has sufficient knowledge of Customs and related laws, regulations and procedures to render valuable service to importers and exporters. Section 111.13, Customs Regulations, relates to the examination of an applicant for a license.

Section 641(a)(2), Tariff Act, as amended by the Act, states that an applicants knowledge of Customs and related laws, regulations and procedures, bookkeeping, accounting, and all other appropriate matters may be determined by examination.

It is proposed to expand the coverage of §§ 111.11(a)(4), and 111.13(a), Customs Regulations, to include within the scope of examinable matters bookkeeping, accounting, and all other appropriate matters.

9. Section 111.11, Customs Regulations, sets forth the basic requirements that must be met by an individual, partnership, association, or corporation to obtain a broker's license. Concerning a partnership, § 111.11(b)(2) requires that there must be an office where transactions with Customs will be performed by a licensed officer or a qualified employee. Section 111.11(b)(3) contains a similar requirement for an association or corporation. In either circumstance, if the transaction is performed by a qualified employee, it must be performed under the "responsible supervision and control" of the licensed member(s) of the partnership or officer(s) of the association or corporation.

In the past, at times, a licensed firm has applied for a license for a branch office, usually in another city, and the application has described how the licensed member(s) or officer(s) in the home office will exercise supervision and control over an employee(s) in the branch office. Occasionally, Customs has found that the description of the supervision and control is inadequate.

Section 641(b)(4), Tariff Act, as amended by the Act, codifies the requirement for the broker to exercise responsible supervision and control over the customs business that it conducts. In order to implement this provision and to clarify the term "responsible supervision and control" used in § 111.11, Customs proposes to add a new paragraph (d) to § 111.11 to define the term.

Under proposed paragraph (d) "responsible supervision and control" means that supervision and control necessary to ensure that the employee provides substantially the same quality of service in handling customs transactions that the licensed broker is required to provide. While the determination of what is necessary to maintain responsible supervision and control will vary depending upon the circumstances in each case, factors, which Customs will consider, include, but are not limited to, the frequency of visits to offices of the licensee by the licensed broker(s); the training required of the employee(s); the issuance of written instructions and guidelines to the employee(s); the volume and type of business of the licensee; the reject rate for the various customs transactions; the

maintenance of current editions of the Customs Regulations, Tariff Schedules and Customs issuances; the availability of the licensed broker(s) for consultation with the employee(s), when necessary; the frequency of audits and reviews by the licensed broker(s) of the customs transactions handled by the employee(s); and any circumstance which indicates whether a licensed broker of the firm has a real interest in the firm's operation.

If a licensed broker is in charge of an office and the broker is not a qualifying broker, the broker employee will be required to exercise responsible supervision and control over the other employees in the firm office over which he is in charge.

10. Section 641(b)(5), Tariff Act, as amended by the Act, provides that any person who intentionally transacts customs business, other than on his own behalf, without holding a valid broker's license shall be liable for a monetary penalty not to exceed $10,000 for each transaction.

It is proposed to redesignate § 111.4, Customs Regulations, as § 111.5 and incorporate the substance of section 641(b)(5), Tariff Act, into a new § 111.4. The proposed section would also cross-reference a new subpart E in Part 111 which will contain the procedures for assessing the monetary penalties established by section 641(b)(6) and section 641(d)(2)(A), Tariff Act.

11. The provisions of § 111.12(a)(2), Customs Regulations, relate to the fee to be charged an applicant for a brokers license. A cross-reference to the fee is also contained in § 111.12(a)(1).

Section 641(h), Tariff Act, as amended by the Act, authorizes the Secretary to prescribe reasonable fees and charges to defray the costs of carrying out the provisions of 641, including, but not limited to fees for licenses and examinations.

Accordingly, it is proposed to eliminate the cross-reference in § 111.12(a)(1) and to revise § 111.12(a)(2) to indicate that each applicant shall be charged a fee to defray the costs to Customs for the preparation and administration of the examination and other expenses in processing the application. The fee will be determined under the provisions of 19 U.S.C. 1641(h) and 31 U.S.C. 9701. The proposed regulation would indicate that the fee will be reviewed annually and revised, if necessary, to reflect current costs. Under the proposal, revisions to the fee will be published in the **Federal Register** and Customs Bulletin. As under the current regulations the fee will accompany the application and be in the form of a check or money order payable to the U.S. Customs Service.

Based upon Customs' review of the current costs incurred in the preparation and administration of the examination and other expenses in processing an application for a brokers license for an individual, it has been determined that a fee of $300.00 is appropriate. Customs' review has indicated that the current costs to process an application for a brokers license for a partnership, association or corporation is $300.00. Accordingly, a $300.00 fee will be required to accompany an individual, partnership, association or corporation application.

Customs has notified its various field offices to begin collecting these fees with applications submitted on or after April 29, 1985.

Section 111.12(c) provides for a refund of the application fee if the application is withdrawn before the date of the examination.

In recognition of the fact that certain processing of an application occurs before the brokers examination which involves time, effort and expense, it is proposed to amend § 111.12(c) to authorize a refund less any costs associated with the processing of the application to include the costs of processing the refund.

Under the provisions of § 112.13, if an applicant fails to appear for an examination, the applicant is entitled to a refund of one-half of the application fee, as is an applicant who fails to pass the examination. It is proposed to amend both paragraphs (d) and (e) § 111.13 to indicate that, in either of the two situations discussed above, the district director will deduct from the application fee the pro rata costs associated with preparing and administering the examination and any other costs associated with the processing of the application, including the costs of processing the refund, and refund the balance to the applicant.

Section 111.13(c) relates to a special examination given to an applicant so an individual, partnership, association, or corporate entity which loses the qualifying broker may continue the Customs brokerage business without interruption. In recognition of the fact that Customs incurs substantial expense for the benefit of the applicant for a special examination, it is proposed to amend § 111.13(e) to authorize the collection of a fee to defray these costs. As with the earlier discussed fees, the fee for the special examination will be determined under the provision of 19 U.S.C. 1641(h) and 31 U.S.C. 9701.

12. Section 641(c), Tariff Act, as amended by the Act, relates to permits for customs brokers. Under that section each person granted a customs brokers license must also have a permit for each Customs district in which that person conducts customs business. The law also provides that the broker shall regularly employ in each Customs district for which a permit is issued at least one individual who is also a licensed broker to exercise responsible supervision and control over the customs business conducted in that district. By virtue of section 214(d)(1)(A) of the Act, the requirement for a licensed broker in each district will take effect on October 31, 1987. When this provision takes effect, the law provides for an exception if the licensed person can demonstrate that it regularly employs in the region in which the district is located, at least one licensed individual and that sufficient procedures exist within the firm for the person employed in that region to exercise responsible supervision and control over the customs business conducted by the firm in the district for which the waiver is sought.

Section 111.19 provides for licenses for additional districts. In order to implement the statutory scheme for permits set forth in section 641(c), Tariff Act, as amended by the Act, it is proposed to modify the language of § 111.19.

It is proposed to retitle the section as "Permits".

Proposed paragraph (a) states that each person granted a broker's license will be concurrently issued a permit for the district through which the application for the license was submitted without the payment of the fee required by proposed paragraph (c) of this section, if it is shown to the satisfaction of the district director that the person intends to transact customs business in the district through which the brokers license application is submitted and the person otherwise complies with the requirements of this section.

Permits for additional districts would be the subject of proposed paragraph (b). Under proposed paragraph (b) a licensed person who intends to conduct customs business in additional districts would submit an application on Customs Form 3124. This is an application for a brokers license. The proposed regulation states that the application would be modified to indicate it is an application for a permit. In an effort to lessen the burden on the broker, the proposal states that if the information set forth on the previously submitted brokers license application is current, a copy of that application can

be used. The application would have to comply in all other respects with the requirements of proposed § 111.12(a). In addition, the broker would have to identify his license number and date of issuance. A list of all districts for which a permit has been previously granted would be required under the proposal.

Under proposed paragraph (c) each application for a permit will be accompanied by a fee to defray the costs of processing the application. The fee will be determined under the provisions of 19 U.S.C. 1641(h) and 31 U.S.C. 9701. As with the fee for the license, the permit fee will be reviewed annually and revised, if necessary, to reflect current costs. Revisions to the fee will be published in the **Federal Register** and Customs Bulletin. As with the other fees it will be payable by check or money order made out to the U.S. Customs Service.

Based upon Customs review of the anticipated costs in the processing of an application for a permit, it has been determined that a fee of $100.00 per application is appropriate. Customs has notified its various field offices to begin collecting this fee with applications submitted on or after April 29, 1985.

Proposed paragraph (d) deals with responsible supervision and control. This paragraph requires that the applicant have a place of business within the district for which the application is filed and establish that it is prepared and qualified to render efficient service and exercise responsible supervision and control over the proposed office.

The proposed paragraph also provides for the employment of at least one licensed individual in each district on or after October 31, 1987. A provision for the statutory exception is included which provides that if an applicant can demonstrate to the satisfaction of the Commissoner of Customs that he regularly employes in the region in which the district is located, at least one individual who is licensed and that adequate procedures exist for that person to exercise responsible supervision and control, a waiver may be granted. A proposed procedure for obtaining a waiver is also included in this paragraph.

It is proposed to redesignate § 111.19 (d) and (e) as § 111.19 (e) and (f), respectively, modify redesignated paragraph (e) to delegate authority to the district director to act on the application and make other editorial changes to both paragraphs to conform them to the other proposed changes.

13. Section 111.23(a), Customs Regulations (19 CFR 111.23(a)), provides that brokers will retain their records for a specified period within the Customs district to which they relate. Under modern business practices, records of financial transactions of large firms often are located in a main office of the firm. Brokers have complained that the requirement that records be maintained in each Customs district to which they relate is a burden. It is believed that Customs and brokers would benefit by permitting the business practice of centralizing records of financial transactions which is often complemented by highly efficient automated data processing methods. Therefore, Customs proposes to amend § 111.23 to permit brokers licensed to transact customs business in districts which are in more than one region, or in more than one district in a single region, to maintain their records of financial transactions at a central location.

Customs anticipates that under the proposal, records such as cash receipts, disbursement journals, accounts receivable and accounts payable, the general ledger, and other summary records would be maintained at one cental location. Other basic records for brokers who operate offices in more than one district would be maintained at each location where the broker transacts customs business. These records would include entry files, immediate delivery release and control files, and other records essential to the day-to-day operations of the local office.

To accomplish this change, this document proposes to amend § 111.23(a) by providing an exemption to the requirement that the records shall be retained within the Customs district to which they relate. A regional commissioner, responsible for the region in which the centralized records are to be maintained, may grant an exemption under the procedure proposed in new § 111.23(e), permitting authorized brokers to maintain records of financial transactions at one centralized location in a region. New proposed § 111.23(f) would provide the procedure for withdrawing the exemption.

Section 111.23(b) provides that with the approval of the district director a broker may microfilm certain specified records. Similarly, § 111.23(d) provides that a broker may use other methods of reproduction, including microfiche, upon approval of the district director. This document proposes to further amend § 111.23 by adding a new paragraph (g). Proposed § 111.23(g) would provide that where a regional commissioner permits a broker to maintain records of financial transactions at one centralized location under proposed paragraph (e), that regional commissioner is responsible for approving requests for the reproduction of those centralized records provided for under paragraphs (b) and (d).

Section 111.23(b) provides that neither books of account nor powers of attorney can be microfilmed. Section 111.23(d) provides that neither books of account nor powers of attorney can be reproduced by other methods. This document proposes to amend § 111.23 (b) and (d) by removing books of account from the exception clause thereby permitting them to be microfilmed or otherwise reproduced. Brokers would still be prohibited from microfilming or otherwise reproducing powers of attorney.

Section 111.22(a) provides that in addition to the regular records of account required by § 111.21, each broker will keep current a record of all Customs transactions in the format set forth in § 111.22(d), unless exempted. Section 111.22(b) provides that the district director may exempt a broker from this requirement if the broker complies with certain specified conditions. Section 111.22(c) provides that the exemption may be withdrawn by the district director if the broker does not comply with the specified conditions.

This document proposes to amend § 111.22 by adding a new paragraph (e) to provide that where a regional commissioner permits a broker to maintain records of financial transactions at one centralized location under proposed § 111.23(e), that regional commissioner is responsible for granting or withdrawing the exemption under § 111.22 (b) and (c) relating to the requirement for an additional record of the transactions.

14. Section 111.28(b), Customs Regulations (19 CFR 111.28(b)), provides that at the request of the district director, a broker shall submit a list of names of persons currently employed, their addresses, social security numbers, and dates and places of birth. Having submitted such a list, each broker is required to advise the district director of the names of any new personnel and provide the same information as required for current employees. If the employment of any person is terminated, the regulations provide that the broker shall promptly advise the district director.

Customs believes that to enhance its enforcement capabilities when investigating employees of brokers, it is necessary to amend § 111.28(b) to require that all brokers submit the information relating to their employees.

Accordingly, under proposed paragraph (b)(1), each broker would submit, in writing, to each district

director where the broker has a permit to transact customs business, a list of the names of persons currently employed. For each employee, the broker would provide the current home address, last prior home address, social security number, date and place of birth, and the name and address of each former employer and dates of employment for the preceding 3-year period, if the employee has been employed by the broker for less than 3 years. This information would be supplied to Customs within 30 days of the effective date of the final brokers regulations. After the initial submission the list would be updated and submitted with the status report required by § 111.30(d).

It is proposed to add a new paragraph (b)(2) which would require the broker to submit the same information required under proposed paragraph (b)(1) for new employees within 10 days after a new employee has been employed for 30 days.

Under proposed paragraph (b)(3), within 10 days after the termination of any employed longer than 30 days, the broker must submit the name of the terminated employee.

A new paragraph (b)(4) highlights that while a broker is responsible for providing the foregoing information, in the absence of culpable evidence to the contrary, Customs will not hold the broker responsible for the accuracy of the information provided to the broker by the employee.

15. In accordance with section 641(b)(3), Tariff Act, as amended by the Act, no license will be granted to any corporation, association, or partnership, unless a license as a broker has been issued to one of the officers or members of the corporation, association, or partnership, and such license is in force. However, on occasion a licensed officer has retired from the business and some years have passed before Customs discovered that the licensed entity was continuing to operate without the required supervision of the licensed broker.

Section 111.30(d) requires that a corporation, partnership, or association, shall file a report with Customs every third year after February 1, 1979, which includes the name and address of the members of the partnership or officer of the corporation or association qualifying it for a license. However, there is no requirement that a licensed broker, who is a qualifying member of a partnership or officer of a corporation or association, notify Customs if he ceases to be a member or officer of that entity. Customs believes that a new paragraph (c) should be added to § 111.28 to require a licensed broker who is a qualifying member or officer to notify Customs if he ceases to be a member or officer. This requirement will provide a cross-check to the requirement of § 111.30(b)(1) that the partnership, association or corporation immediately report the loss of the qualifying officer or member.

16. Section 111.29(a) requires that brokers "account" to clients within 60 days from receipt for funds received from the Government for the clients, or received from a client in excess of the Governmental or other charges properly payable in response to the client's business. Customs has found that sometimes the "account" has been only a recording of a transaction on the broker's books, and in some cases involving inactive accounts, brokers have retained clients' funds indefinitely. Customs believes that § 111.29(a) should be amended to require that brokers provide a written statement to clients about funds received from the Government for a client, and funds received from a client in excess of an applicable charge which the broker has not yet refunded to the client. Further, upon review of the section it was determined that as presently written it is not technically accurate. Accordingly, this document proposes to amend § 111.29(a) to state that each broker will exercise due diligence in making financial settlements, in answering correspondence, and in preparing or assisting in the preparation and filing of records relating to any matter handled by him as a broker. Payment of duty, tax, or other debt or obligation owing to the Government, for which the broker is responsible, will be made to the Government on or before the due date. The proposal also provides that each broker will provide a written statement to a client accounting for funds received for the client from the Government, or received from a client where no payment has been made, or received from a client in excess of the Governmental or other charges properly payable as a part of the client's business, within 60 days of receipt. The proposal provides that no written statement is required if there is actual payment by a broker of such funds.

17. Section 111.30(b) relates to notification to Customs of the date on which a qualifying broker ceased to be a member or officer of a partnership, corporation or association and notification of changes to the articles of Agreement, Charter, or Articles or Incorporation.

It is proposed to qualify the language of the paragraph to state that Customs is only interested in receiving notification of changes to the Articles of Agreement, Charter, or Articles of Incorporation relating to the transaction of customs business.

18. Presently there is no provision in Part 111 relating to the disposition of brokerage business records upon the termination of the business. This document proposes to amend Part 111 by adding a new § 111.30(e) to provide for the notification to Customs of the name and address of the party having legal custody of the brokerage business records upon the termination of the business. The responsibility for notification would lie with the broker upon the permanent termination of his brokerage business, licensed partner(s) upon the permanent termination of the partnership brokerage business, and licensed association or corporate officers upon the permanent termination of the association or corporate brokerage business.

As previously stated, under section 641, Tariff Act, the Secretary may prescribe rules and regulations governing the licensing of brokers and requiring licensed brokers to keep records and furnish information relating to their business to an duly accredited agent of the United States. Customs believes that it is entirely within the responsibility of licensed brokers to notify Customs of the location of business records of defunct brokers. The proposed amendment would provide Customs with notice that a licensed broker is no longer in business and would provide the name of the proper party to contact for inspection of the brokerage business records if the circumstances warrant. This notification is necessary to enable Customs to adequately protect the revenue as well as the interests of the broker's former clients.

19. Section 111.35, Customs Regulations (19 CFR 111.35), relates to acceptance of fees from attorneys. The section provides that with respect to merchandise imported after March 15, 1962, a broker shall not demand or accept from any attorney (whether directly or indirectly, including, for example, from a client as a part of any arrangement with an attorney) on account of any case litigated in any court of law or on account of any other legal service rendered by an attorney, any fee or remuneration in excess of an amount measured by or commensurate with the time, effort and skill expended by the broker in performing his services.

It is proposed to remove the reference in § 111.35 to merchandise imported after March 15, 1962, and substitute a reference to customs transactions.

20. Section 641(b)(5), Tariff Act, as amended by the Act, provides that if a corporate, association, or partnership broker fails for any continuous period of 120 days to have at least one officer of the organization licensed, the organization license will be revoked by operation of law. The predecessor statutory provision also provide for revocation by operation of law in similar circumstances. The regulations implementing that prior provision are set forth in § 111.52, Customs Regulations (19 CFR 111.52), which appear in the regulations under Subpart D relating to cancellation, suspension or revocation of licenses. Because subpart D relates to disciplinary proceedings and revocation by operation of law is not disciplinary in nature, it is proposed to set forth the provisions for revocation by operation of law in a new § 111.45 which is outside of subpart D.

By implication, if a license is revoked by operation of law all permits issued pursuant to that license are also revoked by operation of law. To make this clear, a phrase to this effect has been included in proposed § 111.45(a).

Section 641(c)(3), Tariff Act, as amended by the Act, relates to revocation by operation of law of permits. Specifically, the section provides that if a broker granted a permit fails to employ for any continuous period of 180 days, at least one individual who is a licensed broker within the district or region (if an exception has been granted) for which a permit has been issued, the permit will be revoked by operation of law. This statutory provision is effective October 31, 1987.

The substance of this section is incorporated in proposed § 111.45(b).

Proposed § 111.45(c) provides for notification of the revocation by operation of law to the concerned broker and publication of the revocation in the Customs Bulletin.

21. Section 641(d), Tariff Act, as amended by the Act, provides for disciplinary proceedings. Various forms of misconduct for which disciplinary proceeding may be initiated are set forth in section 641(d)(1). Procedures for assessing a monetary penalty are contained in section 641(d)(2)(A). Suspension, revocation, or a monetary penalty in lieu thereof, procedures are enumerated in section 641(d)(2)(B).

In order to implement the provisions of § 641(d)(2)(B), it is proposed to change the heading of Subpart D to "Cancellation, Suspension, or Revocation of License or Permit, or Monetary Penalty in Lieu Thereof".

It is proposed to add a new § 111.50 which identifies the scope of subpart D. Specifically, this proposed section states that the subpart relates to cancellation, suspension, or revocation of a license or a permit, or assessment of a monetary penalty in lieu thereof under the provisions of § 641(d)(2)(B). It is also proposed to emphasize the distinction between the monetary penalties provisions of the Act by stating that the provisions for assessment of a monetary penalty under § 641(b)(6) (transacting customs business without a brokers license) and section 642(d)(2)(A) (monetary penalty) are contained in a new subpart E.

22. There have been occasions where Customs, in preparing to take action against a particular broker's license, has received a request from the broker that Customs accept the broker's request for voluntary suspension of the license without having a hearing on the matter. For example, the broker may decide that he does not wish to have a hearing after receiving the notice of charges and the statement of charges. To avoid formal proceedings, the broker may request a suspension of his license from Customs.

Part 111, however, does not grant specific authority to the Commissioner or Secretary of the Treasury to accept a broker's application for suspension of the license without a hearing. Section 111.51 provides only for acceptance of a written request for cancellation. Customs believes that Part 111 should be amended to provide that Customs may accept a voluntary offer of suspension of a license or permit submitted by a broker without a hearing. The statutory basis for this authority is found in section 641(d)(3), Tariff Act, as amended by the Act which provides for settlement and compromise. This section is discussed in further detail below with respect to proposed § 111.81. Therefore, this document proposes to amend Subpart D, Part 111, by adding a new § 111.52, relating to "voluntary suspension of a license or permit."

23. Section 641(d)(1), Tariff Act, as amended by the Act, lists specific grounds for which disciplinary proceedings may be instituted.

It is proposed to incorporate this list in a revised §111.53 titled "Grounds for suspension or revocation of license or permit or monetary penalty in lieu thereof."

Specifically, this section provides that disciplinary action may be initiated for the following reasons:

(a) The broker has made or caused to be made in any application for any license or permit under Part 111, or report filed with Customs, any statement which was, at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any application or report any material fact which was required.

(b) The broker has been convicted at any time after filing of an application for a license under § 111.12 of any felony or misdemeanor which the appropriate Customs officer finds:

(1) Involved the importation of exportation of merchandise;

(2) Arose out of conduct of its customs business; or

(3) Involved larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds (infractions set forth in this subparagraph may form the basis for an action to suspend or revoke only);

(c) The broker has violated any provision of any law enforced by Customs or the rules or regulations issued under any such provision;

(d) The broker has counseled, commanded, induced, procured, or knowingly aided or abetted the violation by any other person of any provision of any law enforced by Customs or the rules or regulations issued under any such provision;

(e) The broker has knowingly employed, or continues to employ, any person who has been convicted of a felony, without the written approval of the Commissioner; or

(f) The broker has, in the course of its customs business, with intent to defraud, in any manner willfully and knowingly deceived, misled or threatened any client or prospective client.

24. Section 641(d)(2)(B), Tariff Act, as amended by the Act, sets forth the procedures to be followed for a suspension or revocation action. Under this section Customs may, for good and sufficient reason, serve notice in writing upon broker to show cause why its license or permit should not be revoked or suspended. The notice must be in the form of a statement specifically setting forth the grounds for the complaint. Under the law, the broker has 30 days to respond. If no response is filed, or Customs determines after further review of the matter that action is still warranted, the broker must be notified that a hearing will be held within 15 days. If the broker requests an extension and shows good cause, additional time before the hearing is held may be granted. The hearing will take place before an administrative law judge who will serve as the hearing office. If the broker waives the hearing or fails to appear at the appointed time and place, either in person or by designated

representative, the hearing officer will make findings and recommendations based on the record submitted by the parties. The broker may be represented by counsel at the hearing. All proceedings, including the proof of the charges and the response thereto, will be presented with testimony taken under oath and the right of cross-examination accorded to both parties. A transcript of the hearing will be made. A copy of the transcript will be provided to Customs and another to the broker. Under section 641(d)(2)(B) the parties will be provided with a reasonable opportunity to file a post-hearing brief. Following the conclusion of the hearing, the hearing officer will promptly transmit the record of the hearing along with findings of fact and recommendations to the Secretary for decision. The Secretary is required to issue a written decision, based solely on the record, setting forth findings of fact and reasons for the decision. The decision may provide for the sanction contained in the notice or any lesser sanction including a monetary penalty not to exceed $30,000.

While the statutory provisions discussed above are similar to the existing regulatory procedures, there are differences which warrant amendments to the regulations.

Accordingly, it is proposed to amend both §§ 111.57 and 111.58, Customs Regulations (19 CFR 111.57, 111.58), to remove those portions of the sections which made the institution of preliminary proceedings discretionary.

Section 111.59, Customs Regulations (19 CFR 111.59), sets forth the contents of the notice of preliminary proceedings. It is proposed to add to the items that the notice must contain a statement informing the broker that formal proceedings are available to him and a statement advising the broker that a response to the notice must be received within 30 days of the date of the notice.

Section 111.61, Customs Regulations (19 CFR 111.61), relates to the decision of the Commissioner on preliminary proceedings. In order to conform to the statutory language of section 641(a)(2)(B), it is proposed to add the words "no response is filed or" in the fourth sentence, recognizing that the broker may not submit a response to the notice.

Section 111.64, Customs Regulations (19 CFR 111.64), pertains to the service of notice and other papers. That section presently indicates that the hearing will be scheduled to take place within 5 days after service of the notice of hearing. The statutory provision calls for a 15-day notice period. Accordingly, it is proposed to substitute 15 days for the 5 days presently contained in § 111.64.

Section 111.65, Customs Regulations (19 CFR 111.65), provides for an extension of time for the hearing on the grounds that additional time is necessary to prepare a defense. The statutory provisions authorize an extension for good cause. Accordingly, it is proposed to substitute the statutory good cause requirement in § 111.65.

Section 111.67(a), Customs Regulations (19 CFR 111.67(a)), relates to the Government representatives at the hearing and states that the Commissioner will appoint the hearing officer. The section also provides that the hearing officer will provide a reporter and the Commissioner will appoint persons to represent the Government. In order to conform to the statutory provisions it is proposed to revise § 111.67(a) to state that the hearing officer will be an administrative law judge appointed pursuant to 5 U.S.C. 3105.

It is further proposed to amend § 111.67 relating to the transcript of the record to state that the district director will provide a competent reporter and that copies of the transcript will be delivered to the hearing officer, broker and Government representative without charge.

Finally, it is proposed to amend § 111.67 by adding a new paragraph (e) which states that the Commissioner will designate one or more persons to represent the Government.

Section 111.74, Customs Regulations (19 CFR 111.74), relates to the decision and notice of suspension or revocation. It is proposed to add a sentence to the section stating that the order of suspension or revocation will become effective 60 days after the issuance of the order, unless a shorter period of time is provided. This provision recognizes the broker's right under section 641(e)(1), Tariff Act, as amended by the Act, to appeal the Secretary's decision to the Court of International Trade within 60 days while reserving the right in particularly grievous cases for the Secretary to make the order effective in a lesser period of time.

It is further proposed to amend § 111.74 by requiring payment of a monetary penalty assessed within 120 days of the issuance of the order or the brokers license will be automatically suspended until payment is made.

Section 641(e)(6), Tariff Act, as amended by the Act, provides that if an appeal of the Secretary's order is not taken with 60 days it becomes final and conclusive. The section also states that if a monetary penalty is not tendered within 60 days after the decision becomes final (i.e. 120 days from the date of the order) the license will be automatically suspended. The proposed amendment would implement this provision.

The proposed amendment to § 111.75, Customs Regulations (19 CFR 111.75), recognizes the statutory right to appeal the decision of the Secretary under section 641(e), Tariff Act, as amended by the Act, to the Court of International Trade and indicates that such an appeal, unless specifically ordered by the Court, operates as a stay of the Secretary's order.

25. Section 111.76, Customs Regulations (19 CFR 111.76), relates to reopening of a case on which a final decision has been rendered. The hearing officer is identified as the primary contact for an application to reopen a case. Prior to the Act the hearing officer was an officer of Customs other than a Customs officer of the district for which the license was issued. It is proposed to substitute the Commissioner for the hearing officer wherever hearing officer is identifiifed in § 111.76.

26. Section 111.80, Customs Regulations (19 CFR 111.80), contains a savings provision. It is proposed to update this section to state that any proceedings for revocation or suspension of a license instituted prior to October 30, 1984, will be governed by the provisions of Part 111 which were in force at the time the proceeding was instituted. The proposed section further states that for purposes of this section, the commencement of preliminary proceedings will be considered the institution of proceedings for revocation or suspension, if preliminary proceeding were held.

The amendment would implement the provisions of section 214(d)(3), of the Act, relating to effective dates, which provides that any proceeding for revocation or suspension instituted before the October 30, 1984, date of enactment will be governed by the law in effect at the time the proceeding was instituted.

27. It is proposed to add a new § 111.81 relating to settlement and compromise to implement the provisions of seciton 641(d)(3), Tariff Act, as amended by the Act, which provides that the Commissioner, with the approval of the Secretary, may settle and compromise any disciplinary proceeding, which has been instituted under Part 111, according to the terms and conditions agreed to by the parties, including but not limited to the reduction of any proposed suspension or revocation to a monetary penalty.

28. Various sections of Part 111 refer to the authority of Customs to seek

"suspension or revocation" of a license of a broker. For example, § 111.53 provides that failure or refusal to comply with the duties, responsibilities, or other requirements specified in Subpart C or elsewhere in Part 111 relating to brokers may be deemed grounds for suspension or revocation.

In general, after preliminary proceedings, the district director may recommend to the Commissioner that Customs seek a suspension or revocation of the broker's license. A hearing officer would recommend a decision in the case and certify the entire record to the Secretary of the Treasury. The Secretary then is authorized to issue an order of suspension or revocation of the license.

Customs has always taken the position that the authority to recommend and impose a suspension for a specific period of time is inherent in the regulations even though the regulations merely use the term "suspension." However, to avoid any ambiguity on this point, Customs proposes to amend the regulations by adding the phrase "for a specific period of time" after the term "suspension" or "suspend" where applicable. Accordingly, this document proposes to amend §§ 111.53, 111.66, and 111.74, Customs Regulations (19 CFR 111.53, 111.66, 111.74), to add the above phrase.

29. Section 111.58, Customs Regulations (19 CFR 111.58), provides that the statement of charges must give a description of the facts claimed to constitute grounds for suspension or revocation of the license. To clarify the sanction against the broker, this document proposes to amend § 111.58 to provide that the statement of charges also must specify the sanction being proposed, (i.e., suspension of the broker's license, or revocation of the license, or both), but shall not state a specific period of time for which suspension is proposed.

30. Section 641(d)(2)(A), Tariff Act, as amended by the Act, established procedures for assessing and mitigating a monetary penalty other than the monetary penalty in lieu of suspension or revocation under section 641(d)(2)(B). Under section 641(d)(2)(A), Customs will serve notice in writing upon any broker to show cause why the broker should not be subject to a monetary penalty not to exceed $30,000 for violations of the Act. The notice must advise the broker of the allegations or complaints against him and explain that the broker has a right to respond to the allegations or complaints in writing within 30 days of the date of the notice. Before the monetary penalty may be imposed under the Act, Customs must consider the allegations or complaints and any timely response by the broker as well as representations seeking remission or mitigation of the monetary penalty under the provisions of section 618, Tariff Act of 1930, as amended, (19 U.S.C. 1618). At the conclusion of the proceedings, Customs will issue a written decision to the broker which sets forth the final determination and the findings of fact and conclusions of law on which the determination is based.

As discussed earlier, with respect to proposed § 111.4, a person transacting customs business without a license is liable for a monetary penalty of $10,000. Under the Act (i.e. 19 U.S.C. 1641(b)(6)), the procedures set forth in section 641(d)(2)(A), Tariff Act, are to be used in assessing this peanlty.

In order to implement the foregoing provision, it is proposed to add a new subpart E to Part 111, titled "Monetary Penalty".

Proposed § 111.91 relates to the grounds for imposition of the monetary penalty and the maximum amount which can be assessed.

The proposed section provides that the appropriate Customs officer may assess a monetary penalty or penalties in an amount not to exceed an aggregate of $30,000 for any of the reasons set forth in proposed § 111.53 except for those listed in proposed paragraph (b)(3). The proposed section indicates that a penalty may be assessed in an amount not to exceed an aggregate of $30,000 for all violations and $10,000 for each violation of proposed § 111.4.

It is Customs position that the penalty provided for in section 641(b)(6), Tariff Act, as amended by the Act, is not subject to the monetary cap of $30,000 contained in § 641(d)(2)(A). Section 641(b)(6) specifically provides that this penalty will be assessed in the same manner and under the same procedures as the monetary penalties provided in section 641(d)(2)(A). It is Customs view that the $30,000 cap in section 641(d)(2)(A) does not relate to the manner or procedure for assessing the penalty. However, as a matter of policy, Customs intends to presently limit the penal amount for violations of proposed § 111.4 to $30,000 for violations of that section by a particular person.

Proposed § 111.92 relates to notice of the violation and provides that Customs will issue a written notice which advises the broker or other person of the allegations or complaints and explains that the person has a right to respond to the allegations or complaints in writing within 30 days of the date of mailing of the notice. Under the proposed section, any notice the basis of which is an alleged violation of proposed § 111.53(b) (i.e. conviction of certain felonies or misdemeanors) or which exceed an aggregate of $10,000 for all alleged violations will be referred to Customs Headquarters for approval before being issued.

Part 171, Customs Regulations (19 CFR Part 171), already contains procedures for remission or mitigation of penalties under section 618, Tariff Act. Accordingly, it is proposed to add a new § 111.93 relating to the application for relief which provides that the procedures set forth in Part 171 will be followed in filing the application for relief.

Likewise, Part 171 contains procedures that Customs will follow in rendering decisions on application for relief. Proposed § 111.94 indicates that the appropriate Customs officers will follow those procedures. It is also proposed to state in this section that a written decision will be issued which set forth the final determination and the findings of fact and conclusions of law on which the determination is based. Under this proposed section, if the final determination is that the person is liable for a monetary penalty it must be paid, or arrangements made to pay, within 60 days of the decision or the matter will be referred to the Department of Justice for the institution of appropriate judicial proceedings.

Proposed § 111.95 provides for the filing of a supplemental petition for relief under the provisions of § 171.33 for any penalty in excess of $1,000. A final determination of $1,000 or less would not be subject to further administrative review.

It is proposed to amend § 171.12 to recognize the statutory requirements of section 641(d)(2)(A), Tariff Act, as amended by the Act, that petitions for remission or mitigation must be filed within 30 days of the date of mailing of the notice.

31. Section 641(g), Tariff Act, as amended by the Act, provides for the filing of a triennial report by Customs brokers. Similar provisions were contained in section 641 before its amendment by the Act. The requirement for the triennial report is the subject of § 111.30(d), Customs Regulations (19 CFR 111.30(d)). Section 641(h), Tariff Act, as amended by the Act, states that reasonable fees may be prescribed to defray the costs of administering the provisions of section 641. Accordingly, it is proposed to include in § 111.30(d) a statement that each licensed entity (i.e. individual, partnership, association, or corporation) will submit with the triennial report a fee to defray the costs

of administering the program. The fee will be determined under the provisions of 19 U.S.C. 1641(h) and 31 U.S.C. 9701. The fee will be reviewed periodically and revised, if necessary, to reflect current costs. Revisions to the fee will be published in the **Federal Register** and Customs Bulletin and will be paid in the form of a check or money order made out to the U.S. Customs Service. Because the next triennial report is not due until 1988, Customs is not in a position to determine what the fee will be at that time.

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) that are submitted timely to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.6, Treasury Department Regulations (31 CFR 1.6) and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulation Control Branch, Room 2426, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis have been prepared.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that, if adopted, the proposed regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, these regulations are not subject to the regulatory analysis requirement of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

This document is subject to the Paperwork Reduction Act. Accordingly, the document has been submitted to the Office of Management and Budget for review and comment pursuant to 44 U.S.C. 3504(h). Public comments relating to the information collection aspects of the proposal should be addressed to the Customs Service and to the Office of Management and Budget at the addresses set forth in the ADDRESS portion of this document.

Drafting Information

The principal author of this document was John E. Elkins, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Parts 111 and 171

Customs duties and inspection, Imports, Brokers.

Amendments to the Regulations

It is proposed to amend Parts 111 and 171, Customs Regulations (19 CFR Parts 111, 171), as set forth below.

William von Raab,

Commissioner of Customs.

Approved: June 13, 1985.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

Proposed Amendments

1. It is proposed to revise the authority citation for Part 111, Customs Regulations (19 CFR Part 111), to read as set forth below and to remove the statutory citations appearing elsewhere in Part 111.

Authority: 19 U.S.C. 66, 1202 (Gen. Hdnte 11), 1624, 1641.

2. It is proposed to revise the heading for Part 111 and to revise § 111.0 to read as follows:

PART 111—CUSTOMS BROKERS

§ 111.0 Scope.

This part sets forth regulations providing for the licensing of, and granting of permits to, persons desiring to transact customs business as customs brokers, the qualifications required of applicants, and the procedures for applying for licenses and permits. This part also prescribes the duties and responsibilities of brokers, the grounds and procedures for disciplining brokers, including the assessment of monetary penalties, and the revocation or suspension of licenses.

3. It is proposed to amend § 111.1 by redesignating paragraphs (c), (d), (e), (f) and (g) as paragraphs (d), (e), (f), (g) and (h), respectively, revising redesignated paragraph (f), and adding a new paragraph (c) to read as follows:

§ 111.1 Definitions.

* * * * *

(c) *Customs business.* "Customs business" means those activities involving transactions with Customs concerning the entry and admissibility of merchandise, its classification and valuation, the payment of duties, taxes, or other charges assessed or collected by Customs upon merchandise by reason of its importation, or the refund, rebate, or drawback thereof.

* * * * *

(f) *Records.* "Records" means those documents identified in § 162.1a of this chapter and kept as provided in § 162.1b of this chapter.

* * * * *

4. It is proposed to revise § 111.2 to read as follows:

§ 111.2 License and district permit required.

A person shall obtain the license provided for in this part in order to transact the business of a broker. A separate permit is required for each Customs district in which a licensee conducts customs business.

5. It is proposed to amend Part 111 by removing § 111.5, redesignating existing § 111.4 as § 111.5 and adding a new § 111.4 to read as follows:

§ 111.4 Transacting customs business without a license.

Any person who intentionally transacts customs business, other than as provided in § 111.3, without holding a valid broker's license, shall be liable for a monetary penalty for each such transaction as well as for each violation of the requirements of 19 U.S.C. 1641. The penalty shall be assessed in accordance with Subpart E of this chapter.

§ 111.5 [Amended]

6. It is proposed to amend paragraph (a) of redesignated § 111.5 by removing the words "is not licensed" and inserting, in their place, the words "has not been granted a permit".

Subpart B—[Amended]

7. It is proposed to amend the heading to Subpart B by adding the words "Or Permit" after the word "License".

8. It is proposed to amend § 111.11(a)(4) by removing the words "regulations, and procedures" in the first sentence and inserting, in their place, the words "regulations and procedures, bookkeeping, accounting, and all other appropriate matters".

9. It is proposed to revise § 111.11 (b) and (c) and to add a new paragraph (d) to read as follows:

§ 111.11 Basic requirements.

* * * * *

(b) *Partnership.* A partnership must:

(1) Have one member of the partnership who is a licensed broker, and

(2) Establish that it will have an office in the customs district where it has been granted a permit in which its Customs transactions will be performed by the licensed member of the partnership, or an employee under the responsible

supervision and control of the licensed member.

(c) *Association or corporation.* An association or corporation must:

(1) Be empowered under its articles of association or articles of incorporation to transact customs brokerage business;

(2) Have at least one officer who is a licensed broker; and

(3) Establish that it will have an office in the Customs district where it has been granted a permit in which its customs transactions will be performed by a licensed officer or an employee under the responsible supervision and control of the licensed officer.

(d) *Responsible supervision and control.* The term "responsible supervision and control" means that supervision and control necessary to ensure that the employee provides substantially the same quality of service in handling customs transactions that the licensed broker is required to provide. While the determination of what is necessary to maintain responsible supervision and control will vary depending upon the circumstances in each case, factors, which Customs will consider, include, but are not limited to, the frequency of visits to offices of the licensee by the licensed broker(s); the training required of employees; the issuance of written instructions and guidelines to the employees; the volume and type of business of the licensee; the reject rate for the various customs transactions; the maintenance of current editions of the Customs Regulations, Tariff Schedules of the United States and Customs issuances; the availability of the licensed broker(s) for consultation with the employee(s), when necessary; the frequency of audits and reviews by the licensed broker(s) of the customs transactions handled by the employee(s); and any circumstance which indicates whether a licensed broker of the firm has a real interest in the firm's operations.

10. It is proposed to amend § 111.12(a)(1) by removing the words "the fee prescribed in paragraph (a)(2) of this section and," in the third sentence.

11. It is proposed to revise § 111.12(a)(2) to read as follows:

§ 111.12 Application for license.

* * * * *

(a) * * *

(2) *Fee.* Each applicant for a brokers license shall be charged a fee to defray the costs to Customs for the preparation and administration of the examination and other expenses in processing the application. The fee shall be determined under the provisions of 19 U.S.C. 1641(h) and 31 U.S.C. 9701. The fee will be reviewed annually and revised, if necessary, to reflect current costs. Revisions to the fee will be published in the **Federal Register** and **Customs Bulletin.** The fee shall accompany the application and be in the form of a check or money order payable to the U.S. Customs Service.

* * * * *

12. It is proposed to amend § 111.12(c) by adding the words "less any costs associated with the processing of the application to include the costs of processing the refund" at the end of the sentence.

13. It is proposed to amend § 111.13(a) by removing the words "regulations, and procedures" in the first sentence and inserting, in their place, the words "regulations and procedures, bookkeeping, accounting, and all other appropriate matters".

14. It is proposed to amend § 111.13(c) by removing the reference to "§ 111.12(a)" in the last sentence and inserting, in its place, "§ 111.12".

15. It is further proposed to revise the first sentence of § 111.13(c) and add five new sentences at the end of the paragraph to read as follows:

§ 111.13 Examination of applicant for individual license.

* * * * *

(c) *Special examination.* When a partnership, association, or corporation loses the licensed member or officer and its license will lapse under the provisions of 19 U.S.C. 1641(b)(5) before the next scheduled examination, the Commissioner may authorize a special examination for an applicant who will serve as the licensed member or officer. * * * The applicant for a special examination shall be charged a fee to defray the costs to Customs for the preparation and administration of the examination and other expenses in processing the application. The fee shall be determined under the provisions of 19 U.S.C. 1641(h) and 31 U.S.C. 9701. The fee will be reviewed annually and revised, if necessary, to reflect current costs. Revisions to the fee will be published in the **Federal Register** and **Customs Bulletin.** The fee shall accompany the application and be in the form of a check or money order payable to the U.S. Customs Service.

* * * * *

16. It is proposed to amend § 111.13 (d) and (e) by removing the last sentence of each paragraph and, in each instance, adding a new sentence to read as follows:

§ 111.13 Examination of applicant for individual license.

* * * * *

(d) * * * The district director shall deduct from the application fee the pro rata costs associated with preparing and administering the examination and any other costs associated with the processing of the application, including the costs of processing the refund, and refund the balance to the applicant.

(e) * * * The district director shall deduct from the application fee the pro rata costs associated with preparing and administering the examination and any other costs associated with the processing of the application, including the costs of processing the refund, and refund the balance to the applicant.

* * * * *

17. It is proposed to amend § 111.19 by revising the section heading, redesignating paragraphs (d) and (e) as paragraphs (e) and (f), respectively, revising paragraphs (a), (b), and (c) and adding a new paragraph (d), to read as follows:

§ 111.19 Permits.

(a) *General.* Each person granted a broker's license under this part shall be concurrently issued a permit for the district through which the application was submitted, without the payment of the fee required by paragraph (c) of this section, if it is shown to the satisfaction of the district director that the person intends to transact customs business within the district through which the brokers license application is submitted and the person otherwise complies with the requirements of this section.

(b) *Submission of application for permits for additional districts.* A licensed person who intends to conduct customs business in an additional Customs district, or a licensed person who was not concurrently granted a permit with the broker's license under paragraph (a), shall submit an application for each additional Customs district to the district director of that district on Customs Form 3124. If the information set forth by the applicant on the Customs Form 3124 submitted pursuant to § 111.12 is current, a copy of that application may be submitted in place of a new Customs Form 3124. The Customs Form 3124 shall be modified to indicate that it is an application for a permit. The applicant shall comply with the requirements set forth in § 111.12(a). Each application for a permit shall identify the broker's license number and date of issuance. The broker shall list in its application all districts for which a permit has been granted.

(c) *Fee.* Each application for a permit shall be accompanied by a fee to defray the costs of processing the application. The fee shall be determined under the

provisions of 19 U.S.C. 1641(h) and 31 U.S.C. 9701. The fee will be reviewed annually and revised, if necessary, to reflect current costs. Revisions to the fee will be published in the **Federal Register** and **Customs Bulletin.** The fee shall be paid by check or money order payable to the U.S. Customs Service.

(d) *Responsible supervision and control.* The applicant shall have a place of business within the district for which the application is filed, establish that it is prepared and qualified to render efficient service in the additional district and will exercise responsible supervision and control over the proposed office as defined by § 111.11(d). On or after October 31, 1987, other than as provided below, the applicant shall employ in each district for which a permit is granted at least one individual licensed under this subpart to exercise responsible supervision and control over the customs business conducted in the district. If the applicant can demonstrate to the satisfaction of the Commissioner that he regularly employs, in the region in which the district is located, at least one individual who is licensed under this subpart, and that adequate procedures exist within the company for the person employed in that region to exercise responsible supervision and control, as defined by § 111.11(d), over the customs business conducted in the district, the Commissioner may waive the requirement for a licensed broker in that district. A request for a waiver, supported by information on the volume and type of customs business conducted, or planned to be conducted, and evidence demonstrating that the applicant is able to exercise responsible supervision and control, shall be sent to the district director of the district in which the waiver is sought. The district director shall review the matter and make recommendations which will be sent to the Director, Entry Procedures and Penalties Division, Office of Regulations and Ruling, Washington, DC 20229, through the appropriate regional commissioner. The regional commissioner will conduct a review of the district recommendations and make appropriate recommendations before referring the matter to Customs Headquarters.

18. It is proposed to amend redesignated § 111.19(e) by removing the words "is licensed" in the first sentence and inserting, in their place, the words "has a permit", and by revising the paragraph heading and third and fourth sentences of the paragraph to read as follows:

* * * * *

(d) *Action on application.* * * * The district director after considering all the facts and circumstances, shall rule on the application.

* * * * *

19. It is proposed to amend redesignated § 111.19(f) by removing the word "Commissioner" and inserting in its place, the words "district director".

§ 111.21 [Amended]

20. It is proposed to amend the second sentence of § 111.21 by removing the word "papers" both times it appears and inserting, in its place, the word "records."

21. It is proposed to amend the introductory paragraph of § 111.22(b) and § 111.22(b)(2) by removing the words "books and" each time they are used.

22. It is proposed to further amend § 111.22 by adding a new paragraph (e) to read as follows:

§ 111.22 Additional record of transactions.

* * * * *

(e) *Authorization.* The regional commissioner for the region in which a broker has been granted an exemption to maintain records of financial transactions on a centralized system basis, as set forth in § 111.23(e), is responsible for providing an exemption or withdrawal of exemption under paragraphs (b) and (c) of this section.

23. It is proposed to revise the heading to § 111.23 and paragraph (a) to read as follows:

§ 111.23 Retention of records.

(a) *Place and period of retention.*

(1) *Place.* The records, as defined in § 111.1(f), and required by §§ 111.21 and 111.22 to be kept by a broker, shall be retained within the Customs district to which they relate, unless an exemption has been granted for centralized accounting records under paragraph (e) of this section.

(2) *Period.* The records described in paragraph (a)(1) of this section, other than powers of attorney, shall be retained for at least 5 years after the date of entry. Powers of attorney shall be retained until revoked, and revoked powers of attorney and letters of revocation shall be retained for 5 years after the date of revocation. When merchandise is withdrawn from a bonded warehouse, copies of papers relating to the withdrawal shall be retained for 5 years from the date of withdrawal of the last withdrawn merchandise under the entry.

* * * * *

24. It is proposed to revise the introductory paragraph of § 111.23(b) to read as follows:

* * * * *

(b) *Microfilming of records.* A broker, with the approval of the district director for the district in which he has been granted a permit and the records are located, may record on microfilm any records other than powers of attorney, required to be retained under the provisions of paragraph (a) of this section, at any time after the entry to which these records pertain has been liquidated, upon the following conditions:

* * * * *

25. It is proposed to revise § 111.23(d) to read as follows:

* * * * *

(d) *Other methods of reproduction for record retention.* A broker may, with the approval of the district director for the district in which he has been granted a permit and the records are located, use other methods of reproduction, including microfiche, for the reproduction of records, other than powers of attorney, permitted to be microfilmed under paragraph (b) of this section, provided the requirements of paragraphs (b) an (c) of this section are met.

26. It is proposed to further amend § 111.23 by adding new paragraphs (e), (f), and (g) to read as follows:

* * * * *

(e) *Exemption.* (1) *Applicability.* The procedure to maintain records of financial transactions on a centralized system basis is available to brokers who have been granted permits to do business in districts in more than one region, and brokers who have been granted permits to do business in more than one district within one region.

(2) *Request.* A written request for the authorization to maintain records of financial transactions on a centralized system basis shall be submitted to the regional commissioner responsible for the region in which the centralized records are to be maintained. The written request shall include:

(i) The address at which the broker desires to maintain the centralized accounting records. This location must be within a district where the broker has been granted a permit.

(ii) A detailed statement describing all the records of financial transactions to be maintained at the centralized location, the methodology of record maintenance, a description of any automated data processing to be applied, and a list of all the broker's customs business activity locations.

(iii) An agreement that if the authorization is granted, no change in the records, the manner of recordkeeping, or the location at which they will be maintained, will be made unless approved by Customs. Each request for a change requires prior approval in the same manner as prescribed above.

(iv) An agreement to comply with § 111.22.

(v) An agreement that all financial records pertaining to customs transactions will be made available to Customs for complete inspection in accordance with § 111.25 of this Part and § 162.1d of this Chapter after reasonable notice has been provided.

(3) *Approval.* After the broker's request has been received and reviewed by the regional commissioner, he shall advise the broker, in writing, of his decision whether to authorize the broker to maintain records of financial transactions on a centralized system basis. If the request involves records from districts not within the jurisdiction of the regional commissioner of the region where the request was filed, the regional commissioner should consult with the other affected regional commissioners, before action on the request.

(f) *Withdrawal of exemption.* Whenever an audit by Customs indicates that a broker to whom an exemption has been granted is not keeping records in accordance with the requirements of paragraph (e) of this section, the regional commissioner who granted the exemption shall notify the broker, in writing, of the audit finding(s). The regional commissioner shall provide the broker with 30 days from the date of notification to respond to the audit finding(s) unless a shorter period is deemed necessary. If the broker fails to respond, or if the regional commissioner determines that a broker has not responded satisfactorily to the audit finding(s) the regional commissioner shall withdraw the exemption by notice in writing. The written notice shall not become effective until 30 days after the date of mailing of the notice. The broker shall thereafter keep and maintain records as required by paragraph (a) of this section.

(g) *Reproduction of centralized accounting records.* The regional commissioner for the region in which the broker has been granted an exemption to maintain records of financial transactions on a centralized system basis, provided in paragraph (e) of this section, is responsible for approving requests for the reproduction of centralized financial records provided under paragraphs (b) and (d) of this section.

§§ 111.24, 111.25, 111,26, and 111.27 [Amended]

27. It is proposed to amend § 111.24 and § 111.25 by removing the words "Books and papers" in the section headings and, in each instance insert, in their place, the word "Records".

28. It is proposed to amend the first sentence of § 111.24, § 111.25, and § 111.27, the second sentence of § 111.27, and the section heading of § 111.26 and § 111.27 by removing the words "books and papers" and, in each instance inserting, in their place, the word "records".

29. It is proposed to amend § 111.26 by removing the words "book or paper" and inserting, in their place, the word "record".

30. It is proposed to amend § 111.28 by revising paragraph (b) and adding a new paragraph (c), to read as follows:

§ 111.28 Responsible supervision.

* * * * *

(b) *Employee information.*—(1) *Current employees; General.* Each broker shall submit, in writing, to each district director where the broker has a permit to transact customs business, a list of the names of persons currently employed. For each such employee, the broker also shall provide the current home address, last prior home address, social security number, date and place of birth, and name and address of each former employer and dates of employment for the 3-year period preceding current employment with the broker, if the employee has been employed by the broker for less than 3 years. After the initial submission the list shall be updated and submitted with the status report required by § 111.30(d) of this part.

(2) *New employees.* Within 10 days after a new employee has been employed for 30 days, the broker shall submit, in writing, to the district director, the same information as set forth above for any new employee.

(3) *Terminated employees.* Within 10 days after the termination of employment of any employee employed longer than 30 days, the broker shall submit, in writing, to the district director, the name of the terminated employee.

(4) *Broker's responsibility.* A broker is responsible for providing the information required in paragraphs (b)(1), (b)(2), and (b)(3) of this section. However, in the absence of culpable evidence to the contrary, Customs will not hold the broker responsible for the accuracy of the information provided to the broker by the employee.

(c) *Termination of qualifying member or officer.* If a licensed broker who is a qualifying member of a partnership, or officer of an association or corporation, ceases his employment as a qualified member or officer, that broker shall give written notice immediately of that fact to the Commissioner and send a copy of the written notice to the each district director where a permit has been granted to the partnership, association, or corporation.

31. It is proposed to revise § 111.29(a) to read as follows:

§ 111.29 Diligence in correspondence and paying monies.

(a) *Due diligence by broker.* Each broker shall exercise due diligence in making financial settlements, in answering correspondence, and in preparing or assisting in the preparation and filing of records relating to any matter handled by him as a broker. Payment of duty, tax, or other debt or obligation owing to the Government, for which the broker is responsible, shall be made to the Government on or before the date due. Each broker shall provide a written statement to a client accounting for funds received for the client from the Government, or received from a client where no payment has been made, or received from a client in excess of the Governmental or other charges properly payable as part of the client's business, within 60 days of receipt. No written statement is required if there is actual payment by a broker of such funds.

* * * * *

32. It is proposed to amend § 111.30 by revising the section heading and paragraph (b) and by adding a new paragraph (e), to read as follows:

§ 111.30 Notification of change of business address, organization, name, or location of business records; status report.

* * * * *

(b) *Organization.* A partnership, association, or corporation shall immediately notify the Commissioner and each district director of the districts where a permit has been granted to the partnership, association, or corporation of:

(1) The date on which the licensed member or officer who is the qualifying member or officer ceases to be a member or officer and the name of the broker who will succeed as the qualifying member or officer; or

(2) Any change in the Articles of Agreement, Charter, or Articles of

Incorporation relating to the transaction of customs business.

* * * * *

(e) *Location.* Upon the permanent termination of a brokerage business, both the Commissioner and the district director of each Customs district for which a permit has been issued shall be provided written notification of the name and address of the party having legal custody of the brokerage business records. Responsibility for notification shall be as follows:

(1) The broker, upon the permanent termination of his brokerage business;

(2) The licensed partner(s), upon the permanent termination of the partnership brokerage business;

(3) The licensed association or corporate officer(s), upon the permanent termination of the association or corporate brokerage business.

33. It is proposed to amend § 111.30(c) by removing the words "is licensed" in the first sentence and inserting, in their place, the words "has been granted a permit".

34. It is proposed to amend § 111.30(d) by removing the words "is licensed" in the fourth sentence and inserting, in their place, the words "has been granted a permit".

35. It is proposed to further amend § 111.30(d) by adding the following between the first and second sentences.

§ 111.30 Notification of change of business address, organization, name, or location of business records; status report.

* * * * *

(d) *Status report.* * * * The report shall be accompanied by a fee to defray the costs of administering the reporting requirement. The fee shall be determined under the provisions of 19 U.S.C. 1641(h) and 31 U.S.C. 9701. The fee will be reviewed periodically and revised, if necessary, to reflect current costs. Revisions to the fee will be published in the Federal Register and Customs Bulletin. The fee shall be paid by check or money order payable to the U.S. Customs Service. * * *

36. It is proposed to further amend § 111.30(d) by adding the following at the end of the paragraph.

* * * * *

(d) *Status report.* * * * If the licensed person fails to file the required report by March 1 of the reporting year, the license is suspended by operation of law on March 1, of the reporting year. By March 31 of the reporting year, the Commissioner shall transmit written notice of the suspension to the licensee, by certified mail return receipt requested, at the address reflected in Customs records. It the licensed person files the required report within 60 days of receipt of the notice, the license shall be reinstated upon payment of the administrative costs associated with the notification of the licensed person of its failure to timely report pursuant to the requirements of this paragraph. If the licensed person does not file the required report within the 60-day period, the license shall be revoked without prejudice to the filing of an application for a new license. Notice of the revocation shall be published in the Customs Bulletin.

§ 111.35 [Amended]

37. It is proposed to amend § 111.35 by removing the words "merchandise imported after March 15, 1962," and inserting, in their place, the words "customs transactions".

§ 111.37 [Amended]

38. It is proposed to amend § 111.37 by adding the words "or permit" after the word "license" in the section heading and in the text of the section the second time it is used and by adding the word ", permit" after the word "license" the first time it is used in the text of the section.

39. It is proposed to revise the heading and text of § 111.43 to read as follows:

§ 111.43 Display of license and permits.

Each licensee shall display its permit in the principal office within the district so it may be seen by anyone transacting business in the office. Photocopies of the permit shall be conspicuously posted in each branch office within the district. Photocopies of the license also may be posted.

40. It is proposed to amend Part 111 by adding a new § 111.45 to Subpart C to read as follows:

§ 111.45 Revocation by operation of law.

(a) *License.* The failure of a broker that is licensed as a corporation, association, or partnership to have, for any continuous period of 120 days, at least one officer of the corporation or association, or at least one member of the partnership, validly licensed shall, in addition to causing the broker to be subject to any other sanction, result in the revocation by operation of law of its license and any permits issued to a corporation, association, or partnership.

(b) *Permit.* On or after October, 31, 1987, the failure of a broker, granted a permit, to employ, for any continuous period of 180 days, at least one individual who is licensed within the district (or region, if an exception has been granted pursuant to § 111.19(d)), for which a permit was issued shall, in addition to causing the broker to be subject to any other sanction, result in the revocation by operation of law of the permit.

(c) *Notification.* When a partnership, association, or corporation license or permit is revoked by operation of law, the Commissioner wil notify the organization of the revocation. When an individual brokers permit is revoked by operation of law, the Commissioner will notify the broker. A copy of the notice will be sent to the district director. Notice to the public of the revocation will be given by publication in the Customs Bulletin.

41. It is proposed to amend the heading for Subpart D to read as follows:

Subpart D—Cancellation, Suspension, or Revocation of License or Permit, or Monetary Penalty in Lieu Thereof.

It is proposed to amend Part 111 by adding a new § 111.50 to Subpart D to read as follows:

§ 111.50 General.

This subpart relates to cancellation, suspension, or revocation of a license or a permit, or assessment of a monetary penalty in lieu thereof under the provisions of section 641(d)(2)(B), Tariff Act of 1930, as amended (19 U.S.C. 1641(d)(2)(B)). The provisions for assessment of a monetary penalty under section 641(b)(6) and section 641(d)(2)(A), Tariff Act of 1930, as amended (19 U.S.C. 1641(b)(6), 1641(d)(2)(A)), are contained in Subpart E.

§ 111.51 [Amended]

42. It is proposed to amend § 111.51 by adding the words "or permit" after the word "license" each time it is used in the section and the section heading.

43. It is proposed to revise § 11.52 to read as follows:

§ 111.52 Voluntary suspension of license or permit.

The Commissioner may accept a broker's written voluntary offer of suspension for a specific period of time of the broker's license or permit under such terms and conditions as the parties may agree.

44. It is proposed to revise the heading and text of § 111.53 to read as follows:

§ 111.53 Grounds for suspension or revocation of license or permit or monetary penalty in lieu thereof.

Other than as set forth below, the appropriate Customs officer may suspend, for a speicific period of time, or revoke the license or permit of any broker or assess a monetary penalty in

lieu of suspension or revocation, for the following reasons:

(a) The broker has made or caused to be made in any application for any license or permit under this part, or report filed with Customs, any statement which was, at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any application or report any material fact which was required.

(b) The broker has been convicted, at any time after filing of an application for a license under § 111.12, of any felony or misdemeanor which the appropriate Customs officer finds:

(1) Involved the importation or exportation of merchandise;

(2) Arose out of the conduct of its Customs business; or

(3) Involved larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealemnt, embezzlement, fraudulent conversion, or misappropriation fo funds (infractions set forth in this subparagraph may form the basis for an action to suspend or revoke only);

(c) The broker has violated any provision of any law enforced by Customs or the rules or regulations issued under any such provision;

(d) The broker has counseled, commanded, induced, procured, or knonwingly aided or abetted the violation by any other person of any provision of any law enforced by Customs or the rules or regulations issued under any such provision;

(e) The broker has knowingly employed, or continues to employ, any person who has been convicted of a felony, without the written approval of the Commissioner; or

(f) The broker has, in the course of its Customs business, with intent to defraud, in any manner willfully and knowingly deceived, misled or threatened and client or prospective client.

§ 111.54 [Amended]

45. It is proposed to amend § 111.54 by removing the words "section 641(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1641(b))" in the first sentence and inserting, in their place, the words "section 641(d)(2), Tariff Act of 1930, as amended (19 U.S.C. 1641(d)(2))".

46. It is proposed to revise § 111.57(b) to read as follows:

§ 111.57 Determination by Commission.

* * * * *

(b) *Determination to prefer charges.* If the Commissioner determines that charges will be preferred, he shall notify the district director of his determination and instruct that a proposed statement of charges be prepared for review by the Commissioner if not previously submitted.

47. It is proposed to amend § 111.58 by removing the last sentence and by adding a new sentence between the first and second sentences to read as follows:

§ 111.58 Content of statement of charges.

* * * The statement of charges also shall specify the sanction being proposed (e.g., suspension of the broker's license, or revocation of the license, or both) but if a suspension is proposed the charges shall not state a specific period of time for which suspension is proposed. * * *

48. It is proposed to amend § 111.59(b) by removing the words "Unless the Commissioner, under § 111.57, has determined that the preliminary proceedings shall not be followed, the" in paragraph (a) and inserting, in their place, the word "The" and by revising paragraph (b) to read as follows:

§ 111.59 Preliminary proceedings.

* * * * *

(b) *Notice of preliminary proceedings.* The district director shall serve upon the broker, as set forth in § 111.63, a notice, in writing, that:

(1) Transmits a copy of the proposed statement of charges;

(2) Informs him that formal proceedings are available to him;

(3) Informs him that 5 U.S.C. 554 and 558 will be applicable if formal proceedings are necessary;

(4) Invites him to show cause, if he so desires, why the formal proceedings should not be instituted;

(5) Informs him that he may make submissions and demonstrations of the charcter contemplated by the cited statutory provisions;

(6) Invites any negotiation for settlement fo the complaint or charge that the broker deems it desirable to enter into;

(7) Advises him of his right to be represented by counsel;

(8) Specifies the place where the broker may respond in writing and/or orally; and

(9) Advises the broker that the response must be received within 30 days of the date of the notice.

§ 111.61 [Amended]

49. It is proposed to amend § 111.61 by inserting the word "no response is filed or" between the words "If" and "the" in the fourth sentence.

§ 111.64 [Amended]

50. It is proposed to amend § 111.64(a) by removing the number "5" in the last sentence of the paragraph and inserting, in its place, the number "15".

§ 111.65 [Amended]

51. It is proposed to amend § 111.65 by removing the words "on the ground that additional time is necessary to prepare a defense" and insert, in their place, the words "for good cause".

§ 111.66 [Amended]

52. It is proposed to amend § 111.66 by removing the words "on behalf of the Government" in the first sentence and inserting, in their place, the word "by the parties", and the words "suspension or revocation" in the last sentence and inserting, in their place, the words "suspension for a specified period of time or revocation or monetary penalty in lieu of either".

53. It is proposed to amend § 111.67 by adding a new paragraph (e) and revising paragraphs (a) and (d) to read as follows:

§ 111.67 Hearing.

(a) *Hearing officer.* The hearing officer shall be an administrative law judge appointed pursuant to 5 U.S.C. 3105.

* * * * *

(d) *Transcript of record.* The district director shall provide a competent reporter to make a record of the hearing. When the record of the hearing has been transcribed by the reporter, the district director shall deliver a copy to the hearing officer, the broker and the Government representative without charge.

(e) *Government representatives.* The Commissioner shall designate one or more persons to represent the Government at the hearing.

54. It is proposed to revise the heading and text of § 111.74 to read as follows:

§ 111.74 Decision and notice of suspension or revocation or monetary penalty.

If the Secretary of the Treasury, in the exercise of his discretion, issues an order of suspension for a specified period of time or revocation of the license of a broker or a monetary penalty in lieu of either, the Commissioner will notify the broker in writing and publish a notice of suspension or revocation or monetary penalty in lieu thereof in the **Federal Register** and in the Customs Bulletin. The order of suspension or revocation shall beome effective 60 days after the issuance of such order, unless the Secretary determines that a shorter period is deemed necessary. If a monetary penalty is assessed that

penalty shall be tendered within 120 days of the issuance of the order or the license shall automatically be suspended until payment is made.

55. It is proposed to amend § 111.75 by revising it to read as follows:

§ 111.75 Appeal from the Secretary's decision.

An appeal from the order of the Secretary of the Treasury suspending or revoking a license or permit or assessing a monetary penalty in lieu thereof may be taken in accordance with the provisions of section 641(e), Tariff Act of 1930, as amended (19 U.S.C. 1641(e)). The commencement of such proceedings shall, unless specifically ordered by the Court, operate as a stay of the Secretary's order.

§ 111.76 [Amended]

56. It is proposed to amend § 111.76 by removing the words "hearing officer" in the first sentence of paragraph (a) and in the first, second, third and fourth sentences of paragraph (b) and, in each instance, inserting, in their place, the word "Commissioner".

57. It is proposed to revise § 111.80 to read as follows:

§ 111.80 Saving provision.

Any proceeding for revocation or suspension of a license instituted prior to October 30, 1984, shall be governed by the provisions of 19 CFR Part 111 which were in force at the time the proceeding was instituted. For the purposes of this provision, the commencement of preliminary proceedings shall be considered the institution of proceedings for revocation or suspension, if preliminary proceedings were held.

58. It is proposed to amend part 111 by adding a new § 111.81 to Subpart D to read as follows:

§ 111.81 Settlement and compromise.

The Commissioner, with the approval of the Secretary of the Treasury, may settle and compromise any disciplinary proceeding which has been instituted under this part according to the terms and conditions agreed to by the parties, including but not limited to the reduction of any proposed suspension or revocation to a monetary penalty.

59. It is proposed to further amend Part 111 by adding a new Subpart E and § 111.95 through § 111.95 to read as follows:

Subpart E—Monetary Penalty

Sec.

Subpart E—Monetary Penalty

§ 111.91 Grounds for imposition of a monetary penalty; maximum penalty.

The appropriate Customs officer may assess a monetary penalty or penalties as follows: (a) An amount not to exceed an aggregate of $30,000 for any of the reasons set forth in § 111.53, except for those listed in paragraph (b)(3) of that section of (b) an amount not to exceed an aggregate of $30,000, for all violations and $10,000 for each violation of § 111.4.

§ 111.92 Notice.

The appropriate Customs officer shall issue a written notice which advises the Customs broker or other person of the allegations or complaints against him and explains that the person has a right to respond to the allegations or complaints in writing within 30 days of the date of mailing of the notice. Any notice, the basis of which is an alleged violation of § 111.53(b) or which exceeds an aggregate of $10,000 for all alleged violations, shall be referred to the Director, Entry Procedures and Penalties Division, Office of Regulations and Rulings, Customs Headquarters for approval before it is issued.

§ 111.93 Application for relief.

The person shall follow the procedures set forth in Part 171 of this Chapter in filing an application for relief.

§ 111.94 Decision of appropriate Customs officer.

The appropriate Customs officer shall follow the procedures set forth in Part 171 of this Chapter in considering the application for relief. After the appropriate Customs officers have considered the allegations or complaints and any timely response made, a written decision shall be issued which sets forth the final determination and the findings of fact and conclusions of law on which the determination is based. If the final determination is that the person is liable for a monetary penalty the person shall pay, or make arrangements for payment, within 60 days of the date of the final determination. If the monetary penalty is not paid or arrangements made for payment within the time limitations, the appropriate Customs officer shall refer the matter to the Department of Justice for institution of appropriate judicial proceedings.

§ 111.95 Supplemental petition for relief.

A final determination of the district director or other appropriate Customs officer in excess of $1,000 may be the subject of a supplemental petition for relief under the provisions of § 171.33 of this part. A final determination of $1,000 or less is a final decision and is not subject to further administrative review.

60. It is proposed to amend Part 111 by removing the words "Customhouse broker" and "Customhouse brokers" wherever they appear and inserting, in their place, the words "Customs broker" and "Customs brokers", respectively.

PART 171—FINES, PENALTIES AND FORFEITURES

1. It is proposed to revise the authority citation for Part 171, Customs Regulations (19 CFR Part 171), to read as set forth below and to remove the statutory citations appearing elsewhere in Part 171.

Authority: 19 U.S.C. 66, 1592, 1618, 1624.

Section 171.14 also issued under 46 U.S.C. 883.

Subpart C also issued under 19 U.S.C. 1641, 22 U.S.C. 401, 46 U.S.C. 7, 320.

Section 171.44 also issued under 40 U.S.C. 304j, 304k.

2. It is proposed to amend § 171.12(b) by removing the words "paragraph (c)" and inserting, in their place, the words "paragraph (c) or (d)".

3. It is proposed to redesignate paragraph (d) of § 172.12 as paragraph (e) and add a new paragraph (d) to read as follows:

§ 171.12 Filing of petition.

* * * * *

(d) *Petitions for remission or mitigation of monetary penalty.* Petitions for remission or mitigation of a monetary penalty assessed under the provisions of Part 111, Subpart E, shall be filed within 30 days of the date of mailing of the notice.

* * * * *

[FR Doc. 85-18550 Filed 8-6-85; 8:45 am]

BILLING CODE 4820-20-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Ch. I

[Docket No. 85N-0214]

The Drug Price Competition and Patent Term Restoration Act of 1984; Reopening of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Reopening of comment period.

SUMMARY: The Food and Drug Administraion (FDA) is reopening for an unspecified period of time the period for public comment on interpretation of Title I of the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417). This action will allow the public additional time to submit comments.

DATE: Comments will be accepted for an unspecified period of time. FDA will announce the closing data for comments in a future issue of the Federal Register.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marilyn L. Watson, Center for Drugs and Biologics (HFN–360), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3640.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L 98–417) was signed into law September 24, 1984. Title I of the new law amends section 505 of the Federal Food, Drug, and Cosmetic Act and Codifies FDA's authority to accept abbreviated new drug applications (ANDA's) for generic versions of drug products first approved after 1962. Prior to the enactment of Pub. L. 98–417, ANDA's were permitted under FDA regulations for generic versions of drug productss first approved between 1938 and 1962.

In the **Federal Register** of May 24, 1985 (50 FR 21460), FDA published a notice requesting public comments on Title I of Pub. L. 98–417. This notice also announced the establishment of a public file [Docket No. 85N–0214] for all comments, views, and other information submitted to FDA concerning Title I of Pub. L. 98–417. The purpose of the notice was to obtain public comment on interpretation of the new law for purpose of the agency's regulation-writing process. The notice gave interested persons an opportunity to submit written comments by July 8, 1985.

Because of the complexity of the statute's provisions, the agency is interested in continuing to receive questions, identification of policy issues, and suggested interpretations of the new law that will assist the agency if its efforts to develop regualtions implementing Title I Pub. L. 98–417. Therefore, in an effort to encourage greater participation in the submission of comments, FDA is reopening the comment period for an unspecified time period.

The agency cautions, however, that it is proceeding expeditiously in developing implementing regulations and fully intends to issue a proposed rule in a timely manner. Interested persons are encouraged to submit comments on the new law as early as possible in order for FDA to evaluate and consider them in developing its regulations.

Interested persons may submit written comments on Title I of Pub. L. 98–417 to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except tha individuals may submit one copy. All comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 1, 1985

John R. Wessel.

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85–18203 Filed 8–2–85; 1:41 pm]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 14–85]

Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The Department of Justice, Antitrust Division, proposes to revise 28 CFR 16.88 to (1) exempt a system of records from certain provisions of the Privacy Act, (2) remove systems of records which are not operational, and (3) make editorial changes.

Specifically, the Antitrust Division proposes to exempt a system of records entitled "Freedom of Information/Privacy—Requester/Subject Index File (JUSTICE/ATR–008)" from subsections (c)(3), (d), (e)(4)(G) and (H), and (f) of the Privacy Act. This system is exempted to the extent that the records reflect Antitrust Division law enforcement and investigative information. The exemption is needed to protect the integrity of law enforcement prosecutions and investigations, the privacy of third parties, and the identity of confidential sources. In addition, the Division proposes to remove from 28 CFR 16.88 notice of the exemption of two systems entitled, "Computerized Document Retrieval System—United States v. International Business Machines (CDRS—Tire Cases) (JUSTICE/ATR–002)," and "Computerized Document Retrieval System—Tire Cases (CDRS—Tire Cases) (JUSTICE/ATR–003)." Although these record systems have not been operational for many years, through administrative error they were never removed from 28 CFR 16.88 Thus, the removal of these systems is an editorial/administrative correction and has no effect on the public. Finally, and also for administrative reasons having no effect on the public, the Division proposes to change the identifying number of a system of records entitled "Antitrust Caseload Evaluation System (ACES)—Monthly Report (JUSTICE-ATR–009)" to "006."

DATE: Submit comments on or before September 6, 1985.

ADDRESS: Address all comments to Thomas F. O'Leary, Assistant Director, General Services Staff, Justice Mangement Division, Department of Justice, Room 6314, 10th and Constitution Avenue, NW., Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: Thomas F. O'Leary, 202–633–4414.

SUPPLEMENTARY INFORMATION: This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby stated that the order will not have "a significant economic impact on a substantial number of small entities."

List of Subjects in 28 CFR Part 16

Administrative practice and procedure, Courts, Freedom of Information, Privacy, Sunshine Act.

Accordingly, pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order 793–78, it is proposed to revise 28 CFR 16.88 as set forth below.

Dated: May 30, 1985.

Harry H. Flickinger,

Acting Assistant Attorney General for Administration.

Part 16—[Amended]

1. The authority for Part 16 continues to read as follows:

Authority: 5 U.S.C. 552a.

2. Section 16.88 is revised as follows:

§ 16.88 Exemption of Antitrust Division Systems.

(a) The following system of records is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(4)(G) and (H), and (f).

(1) Antitrust Caseload Evaluation System (ACES)—Monthly Report (JUSTICE/ATR-006).

These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k)(2).

(b) Exemption from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because information in this system is maintained in aid of ongoing antitrust enforcement investigations and proceedings. The release of the accounting of disclosures made under subsection (b) of the Act would permit the subject of an investigation of an actual or potential criminal or civil violation to determine whether he is the subject of an investigation. Disclosure of the accounting would therefore present a serious impediment to antitrust law enforcement efforts.

(2) From subsection (d) because access to the information retrievable from this system and compiled for law enforcement purposes could result in the premature disclosure of the identity of the subject of an investigation of an actual or potential criminal or civil violation and information concerning the nature of that investigation. This information could enable the subject to avoid detection or apprehension. This would present a serious impediment to effective law enforcement since the subject could hinder or prevent the successful completion of the investigation. Further, confidential business and financial information, the identities of confidential sources of information, third party privacy information, and statutorily confidential information such as grand jury information must be protected from disclosure.

(3) From subsections (e)(4) (G) and (H), and (f) because this system is exempt from the individual access provisions of subsection (d).

(c) The following system of records is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(4) (G) and (H), and (f):

(1) Freedom of Information/Privacy—Requester/Subject Index File (JUSTICE/ATR-008).

These exemptions apply to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k)(2).

(d) Because this system contains Department of Justice civil and criminal law enforcement, investigatory records, exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because the release of the accounting of disclosures made under subsection (b) of the Act would permit the subject of an investigation of an actual or potential criminal or civil violation to determine whether he is the subject of an investigation. Disclosure of accounting would therefore present a serious impediment to antitrust law enforcement efforts.

(2) From subsection (d) because access to information in this system could result in the premature disclosure of the identity of the subject of an investigation of an actual or potential criminal or civil violation and information concerning the nature of the investigation. This information could enable the subject to avoid detection or apprehension. This would present a serious impediment to effective law enforcement since the subject could hinder or prevent the successful completion of the investigation. Further, confidential business and financial information, the identities of confidential sources of information, third party privacy information, and statutorily confidential information such as grand jury information must be protected from disclosure.

(3) From subsections (e)(4) (G) and (H), and (f) because this system is exempt from the individual access provisions of subsection (d).

[FR Doc. 85-18689 Filed 8-6-85; 8:45 am]

BILLING CODE 4410-01-M

Office of Justice Programs

28 CFR Part 65

Emergency Federal Law Enforcement Assistance

AGENCY: Office of Justice Programs, Department of Justice.

ACTION: Proposed rule, with request for comment.

SUMMARY: The Office of Justice Programs (OJP) is publishing for public comment the proposed regulations to implement the Emergency Federal Law Enforcement Assistance functions vested in the Attorney General by the Justice Assistance Act of 1984 (Pub. L. 98-473). The proposed regulations describe procedures for applying for and administering funds under this Section of the Act.

DATE: Comments are due on or before October 7, 1985.

ADDRESS: Send comments to Eugene H. Dzikiewicz, Acting Deputy Director, Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, 633 Indiana Avenue, N.W., Washington, D.C. 20531 (202/272-6838). (This is not a toll-free number.)

FOR FURTHER INFORMATION CONTACT: R. John Gregrich, Program Manager, Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, 633 Indiana Avenue, N.W., Washington, D.C. 20531 (202/272-6838). (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Justice Assistance Act of 1984, Title II, Chapter VI, Pub. L. 98-473, 98 Stat. 1837 (1984), establishes Emergency Federal Law Enforcement Assistance functions, under the direction and authority of the Attorney General, to assist state and/or local units of government in responding to a law enforcement emergency. The Office of Justice Programs is publishing, for public comment, the proposed regulations to implement this section of the Act.

This section of the Act (section 609) is designed to assist jurisdictions experiencing a law enforcement emergency by providing Federal criminal justice assistance to those states and/or localities involved. The term "law enforcement emergency" is defined by the Act as an uncommon situation which requires law enforcement, which is or threatens to become of serious or epidemic proportions, and with respect to which state and local resources are inadequate to protect the lives and property of citizens, or to enforce the criminal law. Equally clear in the Act, and its legislative history, is the firm intention to avoid unnecessary Federal involvement or intervention in matters which are deemed to be primarily of state and local concern. To that end, the Act states that the term "law enforcement emergency" does *not* include needed planning or other activities related to crowd control for general public safety projects, or situations requiring the enforcement of

laws associated with scheduled public events, including political conventions and sports events.

Often cited as examples of situations giving rise to law enforcement emergencies compatible with the Act are the significant narcotics and violence problems experienced in south Florida, the Atlanta child murders, and the Mount Saint Helens volcanic eruption. Emergencies like these, which are not of an ongoing or chronic nature, would be eligible for assistance.

State and local jurisdictions experiencing significant law enforcement problems should find it helpful to consult with the United States Attorney(s) in the affected District(s). The U.S. Attorney, as Chairman of the Law Enforcement Coordinating Committee (LECC), can bring the problem to the attention of the LECC members, who are representatives of Federal, state, and local criminal justice agencies. Such an approach will allow the LECC members to jointly assess the situation and, possibly, cause LECC member resources to be directed to the problem. Furthermore, should a state or local jurisdiction later decide to submit a request under the Emergency Federal Law Enforcement Assistance Program, the initial involvement with the U.S. Attorney and the LECC should provide focused information regarding the actual extent of the problem, and the resources needed to conduct an effective response.

The Act authorizes the Attorney General to receive written applications for assistance from state chief executives. The information submitted will be reviewed and evaluated by the Attorney General. After consultation with Federal law enforcement community, including the appropriate U.S. Attorney(s), the Attorney General will approve or disapprove the application within 10 days of receipt.

If the Attorney General approves the application, appropriate Federal law enforcement assistance will be provided. The Act defines "Federal law enforcement assistance" as funds, equipment, training, intelligence information, and personnel.

This proposed rule does not constitute a "major" rule as defined by Executive Order 12291 because it does not result in: (a) an effect on the economy of $100 million or more; (b) a major increase in any costs or prices; or, (c) adverse effects on competition, employment, investment, productivity, or innovation among American enterprises.

Finally, because this regulation will not have significant economic impact on a substantial number of small entities, no analyses of the impact of these rules on such entities is required by the Regulatory Flexibility Act.

List of Subjects in 28 CFR Part 65

Grant programs—law, Law enforcement, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed to amend Title 28 Code of Federal Regulations by adding Part 65 to read as follows:

PART 65—EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE

Subpart A—Eligible Applicants

Sec.
65.1 General.
65.2 State government.

Subpart B—Allocation of Funds and Other Assistance

65.10 Fund availability.
65.11 Limitations on fund and other assistance use.
65.12 Other assistance.

Subpart C—Purpose of Emergency Federal Law Enforcement Assistance

65.20 General.
65.21 Purpose of assistance.
65.22 Exclusions.

Subpart D—Application for Assistance

65.30 General.
65.31 Application content.

Subpart E—Submission and Review of Applications

65.40 General.
65.41 Review of state applications.

Subpart F—Additional Requirements

65.50 General.
65.51 Recordkeeping.
65.52 Civil rights.
65.53 Other conditions.

Subpart G—Repayment of Funds

65.60 Repayment of funds.

Subpart H—Definitions

65.70 Definitions.

Authority: The Comprehensive Crime Control Act of 1984, Chap. VI, Div. I, Subdiv. B, Emergency Federal Law Enforcement Assistance, Pub. L. 98-473, 98 Stat. 1837 (Oct 12, 1984).

Subpart A—Eligible Applicants

§ 65.1 General.

This subpart describes who may apply for emergency Federal law enforcement assistance under the Justice Assistance Act of 1984.

§ 65.2 State government.

In the event that a law enforcement emergency exists throughout a state or a part of state, a state (on behalf of itself or a local unit of government) may submit an application to the Attorney General, for emergency Federal law enforcement assistance. This application is to be submitted by the chief executive officer of the state, in writing, on Standard Form 424, and in accordance with these regulations.

Subpart B—Allocation of Funds and Other Assistance

§ 65.10 Fund availability.

For the fiscal year (FY '85), $800,000 has been requested for emergency Federal law enforcement assistance for the entire country. Funds have not yet been appropriated and are not currently available. In FY '86, $1.5 million has been requested. The form and extent of assistance provided will be determined by the nature and scope of the emergency presented; but, in any event, no fund award may exceed the amount ultimately appropriated.

§ 65.11 Limitations on Fund and Other Assistance Use.

(a) *Land Acquisition.* No funds shall be used for the purpose of land acquisition.

(b) *Non-Supplantation.* No funds shall be used to supplant state or local funds that would otherwise be made available for such purposes.

(c) *Civil Justice.* No funds or other assistance shall be used with respect to civil justice matters except to the extent that such civil justice matters bear directly and substantially upon criminal justice matters or are inextricably intertwined with criminal justice matters.

§ 65.12 Other assistance.

In accordance with the purposes and limitations of this subdivision, members of the Federal law enforcement community may provide needed assistance in the form of equipment, training, intelligence information, and personnel. The application may include requests for assistance of this nature.

Subpart C—Purpose of Emergency Federal Law Enforcement Assistance

§ 65.20 General.

The purpose of the Act is to assist state and/or local units of government which are experiencing law enforcement emergencies to respond to those emergencies through the provision of Federal law enforcement assistance. The authority and responsibility for implementation of this Section is vested in the Attorney General of the United States.

§ 65.21 Purpose of assistance.

The purpose of emergency Federal law enforcement assistance is to

provide necessary assistance to (and through) a state government to provide an adequate response to an uncommon situation which: requires law enforcement, which is or threatens to become of serious or epidemic proportions, and with respect to which state and local resources are inadequate to protect the lives and property of citizens or to enforce the criminal law.

§ 65.22 Exclusions.

Excluded from the situations for which this assistance is intended are:

(a) The perceived need for planning or other activities related to crowd control for general public safety projects; and,

(b) A situation requiring the enforcement of laws associated with scheduled public events, including political conventions and sports events.

Subpart D—Application for Assistance

§ 65.30 General.

The Act requires that applications be submitted in writing, by the chief executive officer of a state, on Standard Form 424, in accordance with these regulations.

§ 65.31 Application content.

The Act identifies six factors which the Attorney General will consider in approving or disapproving an application, and includes administrative requirements to ensure appropriate use of Federal assistance. Therefore, each application must be in writing and must include the following:

(a) *Problem*—a description of the nature and extent of the law enforcement emergency, including the specific identification and description of the political and geographical subdivision(s) wherein the emergency exists;

(b) *Cause*—a description of the situation or extraordinary circumstances which produced such emergency;

(c) *Resources*—a description of the state and local criminal justice resources available to address the emergency, and a discussion of why and to what degree they are insufficient;

(d) *Assistance requested*—a specific statement of the funds, equipment, training, intelligence information, or personnel requested, and a description of their intended use;

(e) *Other assistance*—the identification of any other assistance the state or appropriate unit of government has received, or could receive, under any provision of the Act; and

(f) *Other requirements*—assurance of compliance with other requirements of the Act, detailed in other parts of these regulations, including: Nonsupplantation; nondiscrimination; confidentiality of information; prohibition against land acquisition; recordkeeping and audit; limitation on civil justice matters.

Subpart E—Submission and Review of Applications

§ 65.40 General.

This subpart describes the process and criteria for the Attorney General's review and approval or disapproval of state applications. The original application, on Standard Form 424, signed by the chief executive officer of the state should be submitted directly to the Attorney General, U.S. Department of Justice, Washington, DC 20530. One copy of the application should be sent to the Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice, 633 Indiana Avenue, NW., Washington, DC 20531.

§ 65.41 Review of state applications.

(a) *Review criteria.*—The Act provides the basis for review and approval or disapproval of state applications. Federal law enforcement assistance may be provided if such assistance is necessary to provide an adequate response to a law enforcement emergency. In determining whether to approve or disapprove an application for assistance under this section, the Attorney General consider:

(1) The nature and extent of such emergency throughout a state or in any part of a state;

(2) The situation or extraordinary circumstances which produced such emergency;

(3) The availability of state and local criminal justice resources to resolve the problem;

(4) The cost associated with the increased Federal presence;

(5) The need to avoid unnecessary Federal involvement and intervention in matters primarily of state and local concern; and,

(6) Any assistance which the state or other appropriate unit of government has received, or could receive, under any provision of Title I of the Omnibus Crime Control and Safe Streets Act of 1968.

(b) *Review process.* (1) The Attorney General shall consult with the Assistant Attorney General, Office of Justice Programs, and Director, Bureau of Justice Assistance, on requests for grant assistance.

(2) All requests for assistance of the Federal law enforcement community (e.g., equipment, training, information, or personnel) shall be reviewed by the Attorney General in consultation with appropriate members of the Federal law enforcement community, including the United States Attorney(s) in the affected District(s). Such requests will be subject to statutory restrictions, including section 609(o) on Federal agency activities.

(3) The Attorney General will approve or disapprove each application, submitted in accordance with these regulations, no later than ten (10) days after receipt.

Subpart F—Additional Requirements

§ 65.50 General.

This subpart sets forth additional requirements under the Justice Assistance Act. Applicants for assistance must assure compliance with each of these requirements.

§ 65.51 Recordkeeping.

(a) The state must assure that it adheres to the recordkeeping requirements enumerated in OMB Circulars, Number A-102 and Number A-128. This requirement extends to participating units of local governments, in that they are viewed as the state's subgrantees.

(b) The Attorney General and the Comptroller of the United States shall have access, for the purpose of audit and examination, to any books, documents, and records of recipients of Federal law enforcement assistance provided under this subdivision which, in the opinion of the Attorney General or the Comptroller General, are related to the receipt or use of such assistance.

§ 65.52 Civil rights.

The Act provides that "no person in any state shall on the grounds of race, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection with any programs or activity funded in whole or in part with funds made available under this title." Recipients of funds under the Act are also subject to the provisions of Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973, as amended; Title IC of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the Department of Justice Non-Discrimination Regulations 28 CFR Part 42, Subparts C, D, E, and G.

§ 65.53 Other conditions.

(a) *Confidentiality of information.*—Section 812 of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (as amended and implemented by 28 CFR Part 20) shall apply with respect

to information, including criminal history information and criminal intelligence systems operating with the support Federal law enforcement assistance.

Subpart G—Repayment of Funds

§ 65.60 Repayment of funds.

(a) If Federal law enforcement assistance provided under this subdivision is used by the recipient of such assistance in violation of these regulations or for any purpose other than the purpose for which it is provided, then such recipient shall promptly repay to the Attorney General an amount equal to the value of such assistance.

(b) The Attorney General may bring a civil action in an appropriate United States District Court to recover any amount authorized to be repaid under law.

Subpart H—Definitions

§ 65.70 Definitions.

(a) *Law enforcement emergency.*—The term "law enforcement emergency" is defined by the Act as an uncommon situation which requires law enforcement, which is or threatens to become of serious or epidemic proportions, and with respect to which state and local resources are inadequate to protect the lives and property of citizens or to enforce the criminal law. The Act specifically excludes the following situations when defining "law enforcement emergency":

(1) The perceived need for planning or other activities related to crowd control for general public safety projects; and

(2) A situation requiring the enforcement of laws associated with scheduled public events, including political conventions and sports events.

(b) *Federal law enforcement assistance.*—The term "Federal law enforcement assistance" is defined by the Act to mean funds, equipment, training, intelligence information, and personnel.

(c) *Federal law enforcement community.*—The term "Federal law enforcement community" is defined by this Act as the heads of the following departments or agencies:

(1) Federal Bureau of Investigation;

(2) Drug Enforcement Administration;

(3) Criminal Division of the Department of Justice;

(4) Internal Revenue Service;

(5) Customs Service;

(6) Immigration and Naturalization Service;

(7) United States Marshals Service;

(8) National Park Service;

(9) United States Postal Service;

(10) Secret Service;

(11) United States Coast Guard;

(12) Bureau of Alcohol, Tobacco, and Firearms; and,

(13) Other Federal agencies with specific statutory authority to investigate violation of Federal criminal law.

(d) *State.*—The term "state" is defined by the Act as any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands.

Lois Haight Herrington,

Assistant Attorney General.

[FR Doc. 85-18716 Filed 8-6-85; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

Public Comment Period and Opportunity for Public Hearing on Amendments to the Montana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and for a public hearing on an amendment submitted by the State of Montana to amend its permanent regulatory program which was conditionally approved by the Secretary of the Interior under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendments consist of revisions which address: (1) Permit review procedures; (2) bond release procedures; and (3) a cap on the $750 per-day civil penalty provisions.

This notice sets forth the times and locations that the proposed amendment is available for public inspection, the comment period during which interested persons may submit written comments on the proposed program amendment and information pertinent to the public hearing.

DATES: Written comments not received on or before 4:00 p.m. September 6, 1985, will not necessarily be considered. A public hearing on the proposal will be held, if requested, on September 3, 1985, at the address listed below under **"ADDRESSES".** Any person interested in making an oral or written presentation at the hearing should contact Mr. William Thomas at the OSM Casper Field Office by 4:00 p.m. on August 22, 1985. If no one has contacted Mr. Thomas to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Thomas, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing will be held at Eastern Montana College, Billings, Montana 59102.

Written comments should be mailed or hand-delivered to Mr. William R. Thomas, Office of Surface Mining Reclamation and Enforcement, P.O. Box 1420, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644.

See **"SUPPLEMENTARY INFORMATION"** for addresses where copies of the Montana program amendment and administrative record on the Montana program are available. Each requester may receive, free of charge, one single copy of the proposed program amendment by contacting the OSM Casper Field Office listed below.

FOR FURTHER INFORMATION CONTACT: Mr. William Thomas, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644. Telephone: (307) 261-5824.

SUPPLEMENTARY INFORMATION: Copies of the Montana program amendment, the Montana program and the administrative record on the Montana program are available for public review and copying at the OSM offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5124, 1100 L Street, NW., Washington, DC 20240.

Office of Surface Mining Reclamation and Enforcement, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644.

Montana Department of State Lands, 1625 11th Avenue, Capitol Station, Helena, Montana 59601.

Background

The general background on the permanent program, the State program approval process, the Montana progam and the conditional approval can be found in the Secretary's Findings and conditional approval published in the

April 1, 1980 Federal Register (45 FR 21560).

Proposed Amendments

On July 3, 1985, the State of Montana submitted to OSM an amendment to its approved permanent regulatory program. The State advised OSM that the 1985 Montana Legislature passed three bills amending the Montana Strip and Underground Mine Reclamation Act. All three bills will become effective October 1, 1985.

The first bill, House Bill 784, revises the Department of State Lands (DSL) strip mine permit review procedure. The bill changes Montana's law at section 82-4-231 in accordance with OSM's recommendation that the State adopt the Federal provision for an administrative completeness review and public comment period after the administrative completeness determination is made. The amendment provides another public comment period and an opportunity for an informal conference after a DSL decision to issue a permit. The State indicated that the bill will also facilitate DSL/OSM coordination for permit applications involving Federal lands and would coordinate its permit review and environmental impact statement preparation processes with those of OSM.

The second bill, House Bill 769, repeals most of the statutory provisions of section 82-4-232 concerning bond release procedures and replaces it with regulatory language intended to be no less effective than the revised Federal provisions at 30 CFR 800.40 concerning bond release procedures.

The third bill, Senate Bill 359, amends the State law at section 82-4-254 by adding provisions which place a cap on the $750 per-day civil penalty for failure to comply with an abatement order. This change is intended to make the State provision no less effective than the comparable Federal provision at 30 CFR 845.15.

OSM is seeking comment on whether the Montana proposed modifications are no less stringent than SMCRA and no less effective than the Federal regulations and satisfy the criteria for approval of State program amendments at 30 CFR 732.15 and 732.17. If approved, the modifications will be incorproated into the approved Montana program.

The full text of the program modification submitted by Montana for OSM's consideration is available for public review at the addresses listed under **"ADDRESSES"**.

Additional Determinations

(1) *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

(2) *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would nto have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

(3) *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 926

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 31, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

[FR Doc. 85-18737 Filed 8-6-85; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

Office of Pesticides and Toxic Substances

40 CFR Part 157

[OPP-250063; PH-FRL 2876-8]

Child-Resistant Packaging Requirements for Pesticides and Devices; Notification to the Secretary of Agriculture of a Final Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretary of Agriculture.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of the U.S. Department of Agriculture a final regulation that reorganizes and redesignates regulations for child-resistant packaging of pesticides. Furthermore, it establishes an exemption from the requirement for child-resistant packaging for pesticide products in large size packages. The Agency has determined that child-resistant packaging should be required for all products meeting toxicity and residential use criteria, and that an exemption by size is more protective and enforceable than the restrictive labeling statement. This action is required by section 25(a)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: Jean Frane, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 1114, CM#2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-0592).

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(B) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture with a copy of any final regulation at least 30 days prior to signing it for publication in the **Federal Register.** If the Secretary comments in writing regarding the final regulation within 15 days after receiving it, the Administrator shall issue for publication in the **Federal Register,** with the final regulation, the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing within 15 days after receiving the final regulation, the Administrator may sign the regulation for publication in the **Federal Register** anytime after the 15-day period.

As required by FIFRA section 25(a)(3), a copy of this final regulation has been forewarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Authority: 7 U.S.C. 136.

Dated: July 30, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 85-18630 Filed 8-6-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 4E3049/P372; PH-FRL 2877-4]

Pesticide Tolerances for Cyano(3-Phenoxyphenyl) Methyl-4-Chloro-Alpha-(1-Methylethyl)Benzeneacetate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that tolerances be established for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultural commodities radish tops and radish roots. The proposed regulation to establish maximum permissible levels for residues of the insecticide in or on the commodities was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [PP 4E3049/P372], must be received on or before September 6, 1985.

ADDRESS:

By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

In person, bring comments to: Room 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Room 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald Stubbs, Emergency Response and Minor Use Section (TS-676C), Registration Division, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Office location and telephone number: Room 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-1192).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 4E3049 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Stations of California, Florida and Oklahoma.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultural commodities radish tops at 6.0 parts per million (ppm) and radish roots at 0.5 ppm. The petition was later amended to propose tolerances of 8.0 ppm in or on radish tops and 0.3 ppm in or on radish roots.

The data submitted in the petition and other relevant material have been valuated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances include an acute oral rat toxicity study with a median lethal dose (LD_{50}) of 1 to 3 grams (g)/kilogram (kg) (water vehicle) and 450 milligrams (mg)/kg of body weight (bw) (dimethylsulfoxide vehicle); a 90-day dog feeding study with a no-observed-effect level (NOEL) of 500 ppm (12.5 mg/kg, highest dose tested); a 90-day rat feeding study with a NOEL of 125 ppm (6.25 mg/kg); an 18-month mouse feeding study with a NOEL of less than 100 ppm (15 mg/kg) with no oncogenic effects observed under the conditions of the study at dosage levels of 100, 800, 1,000, and 3,000 ppm (3,000 ppm being the highest dosage level tested in the study); a 24-month mouse feeding study with a NOEL of 10 to 50 ppm (1.5 to 7.5 mg/kg) for males and 50 to 250 ppm for females (7.5 to 37.5 mg/kg), no oncogenic effects were noted at dosage levels of 10, 50, 250, and 1,250 ppm (1,250 ppm being the highest dosage level tested); a 24-month rat feeding study that demonstrated no oncogenic effects at 1,000 ppm (50 mg/kg, only level tested, significantly decreased body weight was observed at this dose level); a 2-year rat feeding study with a NOEL of 250 ppm (12.5 mg/kg, highest level fed), no oncogenic effects were observed; a three-generation rat reproduction study with a NOEL of 250 ppm (12.5 mg/kg, highest level fed); teratology studies in mice and rabbits, each negative at 50 mg/kg/day (highest dose tested); and the following mutagenicity studies: mouse dominant lethal (negative at 100 mg/kg of bw, which was the highest level fed); mouse host-mediated bioassay (negative at 50 mg/kg of bw, which was the highest level fed); Ames test *in vitro* (negative), and a bone marrow cytogenic study in Chinese hamster (negative at 25 mg/kg of bw). The following studies assessing neurological effects were performed: a hen study negative at 1.0 g/kg of bw for 5 days repeated at 21 days; a rat (8-day) acute study with a NOEL of 200 mg/kg of bw; a 15-month rat feeding study which resulted in a systemic NOEL of 500 ppm (25 mg/kg) and a NOEL of 1,500 ppm (75 mg/kg) with respect to nerve damage.

The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 12.5 mg/kg, or 250 ppm) and using a 100-fold safety factor, is calculated to be 0.1250 mg/kg, of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 7.5 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.9884 mg/day; the current action for radish tops and roots will increase the TMRC by 0.00374 mg/day, 0.37 percent. Published and pending tolerances utilize 34.29 percent of the ADI; the current action will utilize an additional 0.05 percent.

The nature of the residues is adequately understood and an adequate analytical method, electron-capture gas chromatography, is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency and the fact that there are no animal feed items involved, there will be no secondary residues in meat, milk, poultry or eggs; the tolerance established by amending 40 CFR 180.379 would protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to

submit written comments on the proposed regulations. Comments must bear a notation indicating the document control number, [PP 4E3049/P372]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 29, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.379 is amended by adding and alphabetically inserting the raw agricultural commodities radish tops and radish roots, to read as follows:

§ 180.379 Cyano(3-phenoxyphenyl)methyl-4-chlor-alpha-(1-methyl-ethyl)benzeneacetate; tolerances for residues.

* * * * *

Commodities	Parts Per million
* * * * *	
Radish, roots	0.3
Radish, tops	8.0
* * * * *	

[FR Doc. 85-18590 Filed 8-6-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 4E3123/P373; PH-FRL 2878-9]

Pesticide Tolerance for Carbofuran

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: This document proposes that a tolerance be established for the combined residues of the insecticide carbofuran and its metabolites in or on the raw agricultural commodity artichokes. The proposed regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [PP 4E3123/P373], must be received on or before August 22, 1985.

ADDRESS: By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Donald Stubbs, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 4E3123 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Station of California.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl-*N*-methylcarbamate), its carbamate metabolite, 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl-*N*-methylcarbamate, and the phenolic metabolites 2,3-dihydro-2,2-dimethyl-7-benzofuranyl, 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol, and 2,3-dihydro-2,2-dimethyl-3,7-benzofurandiol in or on the raw agricultural commodity artichokes at 0.4 parts per million (ppm), of which no more than 0.2 ppm is carbamates. The petitioner proposed that use of carbofuan on artichokes be limited to California based on the geographic representative of the residue date submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include a 2-year chronic feeding/oncogenicity study in the rat with a no-observed effect level (NOEL) of 1.0 milligram (mg)/kilogram (kg) of body weight (bw) per day (20 ppm) for cholinesterase-inhibition (CHE) and systemic effects, negative for oncognic effects at the levels tested (0, 10, 20 and 100 ppm); a 2-year chronic feeding/oncogenicity study in the mouse with a NOEL of 3.0 mg/kg bw/day (20 ppm) for CHE, a NOEL of 18.75 mg/kg bw/day (125 ppm) for systemic effects and negative for oncogenic effects at all levels tested (0, 20, 125 and 500 ppm); a 1-year dog feeding study with a NOEL of 0.5 mg/kg (20 ppm); a 3-generation rat reproduction study with a NOEL of 1.0 mg/kg (20 ppm); two rat teratology studies which were negative for teratogenic effects at up to 1.2 mg/kg bw/day and 160 ppm and NOEL's for fetotoxicity of 1.2 mg/kg and 20 ppm); a rabbit teratology study which was negative for teratotogenic and fetotoxic effects at 2.0 mg/kg; and mutagenicity testing which showed carbofuran not to be mutagenic.

The acceptable daily intake (ADI), based on the 1-year dog feeding study (NOEL of 0.5 mg/kg, or 20 ppm) and using a 100-fold safety factor, is calculated to be 0.005 mg/kg of bw/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.3 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.3420 mg/day; the current action for artichokes will increase the TMRC by 0.00009 mg/day, 0.03 percent. Published and pending tolerances utilize 113.99 percent of the ADI; the current action will utilize an additional 0.03 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas chromatography using a nitrogen specific microcoulometric detector, is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency and the fact that there are no animal feed items involved, there will be no secondary residues in meat, milk, poultry or eggs; the tolerance established by amending 40 CFR 180.254 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 15 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act. As provided for in the Administrative Procedures Act (5 U.S.C 553(d)(3)), the comment period time is shortened to less than 30 days because of the necessity to expeditiously provide a means for control of insects infesting artichoke fields.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 4E3123/P373]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 31, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.254 is amended by revising the introductory paragraph and designating same as paragraph (a) and adding paragraph (b) to read as follows:

§ 180.254 Carbofuran; tolerances for residues

(a) Tolerances are established for the combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl-*N*-methylcarbamate), its carbamate metabolite-2,3-dihydro-2,2-dimethyl-3-hdroxy-7-benzofuranyl-*N*-methylcarbamate, and its phenolic metabolites 2,3-dihydro-2,2-dimethyl-7-benzofuranol, 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol, and 2,3-dihydro-2,2-dimethyl-3,7-benzofurandiol in or on the following raw agricultural commodities:

Commodities	Parts per million
. . . . .	

(b) Tolerances with regional registration are established for the combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl-*N*-methylcarbamate), its carbamate metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl-*N*-methylcarbamate, and its phenolic metabolites 2,3-dihydro-2,2-dimethyl-7-benzofuranol, 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol, and 2,3-dihydro-2,2-dimethyl-3,7-benzofurandiol in or on the following raw agricultural commodity:

Commodities	Parts per million
Artichokes (of which not more than 0.2 ppm is carbamates	0.4

[FR Doc. 85-18800 Filed 8-6-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 799

[OPTS-42059A; FRL-2877-7]

1,1,1-Trichloroethane; Proposed Test Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA has issued a final rule under section 4(a) of the Toxic Substances Control Act (TSCA) requiring that manufacturers and processors, of 1,1,1-trichloroethane (TCEA, CAS No. 71-55-6) test this chemical for developmentally toxic effects. The Agency is now proposing that the protocols and schedule, submitted by an industry consortium be adopted as the test standards for TCEA under this test rule.

DATE: Submitted written comments on or before September 23, 1985.

ADDRESS: Submit written comments, identified by the document control number (OPTS-42059A), in triplicate to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E-108, 401 M Street SW., Washington, DC 20460.

A public version of the administrative record supporting this action (with any confidential business information deleted) is available for inspection at the above address from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room E-543, 401 M Street SW., Washington, D.C. 20460, Toll free: (800-424-9065). In Washington, D.C.: (544-1404). Outside the U.S.A.: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 10, 1984 (49 FR 39810), EPA issued a final rule under section 4(a) of TSCA to require testing of TCEA for developmentally toxic effects. The Agency is now proposing that the industry-submitted protocols

and schedule be adopted as the test standards and reporting deadlines for the required testing.

I. Background

1,1,1-Trichloroethane (TCEA, CAS No. 71–55–6) was designated by the Interagency Testing Committee (ITC) for priority testing consideration (46 FR 30300; June 5, 1981). EPA promulgated a final phase I rule requiring testing of TCEA on October 10, 1984 (49 FR 39810). For a detailed discussion of EPA's findings and testing requirements for TCEA refer to the final phase I rule. In accordance with the Test Rule Development and Exemption Procedures for two-phase rulemaking in 40 CFR Part 790, persons subject to this rule were required to submit letters of intent to perform the testing or exemption applications. Those submitting letters of intent were required to submit proposed study plans and schedules for the testing required in the final phase I rule.

On December 20, 1984 (Ref. 7), the U.S. manufacturers and an importer of TCEA notified EPA of their intent to sponsor the testing required in the Phase I test rule and submitted proposed study plans on February 21, 1985 (Refs. 1 through 5).

EPA is now proposing that the submitted protocols and schedules be adopted as the test standards and reporting deadlines for the required testing of TCEA.

II. Proposed Test Standards

A consortium of manufacturers of TCEA, known as the Halogenated Solvents Industry Alliance (HSIA), including Dow Chemical Co., ICI Americas, Inc., PPG Industries, Inc., and Vulcan Materials Co. has notified EPA of their agreement to sponsor the testing required in the final phase I rule for TCEA in 40 CFR 790.4400. HSIA has submitted a proposed study plan for the required testing (Refs. 1 through 5). HSIA proposes to conduct the following studies: Inhalation Developmental Toxicity Probe Study in rabbits; Inhalation Developmental Toxicity Study in rabbits; Inhalation Developmental Toxicity Probe Study in rats. HSIA also proposes that if the rat probe study demonstrates that previous rodent studies conducted by industry and NIOSH were conducted at maternally toxic doses, no further rodent testing will be required; if this is not verified, an Inhalation Development Toxicity Study will be conducted on rats. However, EPA continues to believe that both the probe and Inhalation Developmental Toxicity Study need to be conducted in rats in order to fully characterize the toxicity of TCEA. Therefore, as previously stated in the final Phase I rule (49 FR 39810), EPA requires that the full Developmental Toxicity Study be conducted on both the rat and rabbit.

HSIA has stated that these studies will be conducted in accordance with EPA TSCA Good Laboratory Practice Standards as set forth in 40 CFR Part 792.

Exposure levels of 0, 1,000, 3,000, and 6,000 ppm for 6 hr/day have been proposed for both the rat (days 6 through 15 of gestation) and rabbit (days 6 through 18 of gestation) probe studies, with exposure levels for the full inhalation developmental toxicity study based on results of the probe studies. HSIA has further specified that TCEA from a commercial source stablized with less than 0.1 percent butylene oxide will be used as the test material. Either Sprague Dawley or Fisher 344 rats and New Zealand white rabbits will be used in this testing. The full protocol is available in the public docket for this action. The protocol submitted by HSIA has been reviwed by the Agency and conforms to the OTS Health Effects Test Guidelines for Inhalation Toxicity Testing. The Agency is proposing that these protocols be adopted as test standards for performing the developmental toxicity testing of TCEA required under 40 CFR 799.4400.

III. Reporting Requirements

HSIA has proposed that if the protocol can be made final in 1985, the testing could begin the second quarter of 1986. This is consistent with the schedule submitted by the EPA to and adopted by the Court in its final order for NRDC v. EPA (Ref. 6).

HSIA has proposed that within 90 days after the effective date of the final Phase II rule establishing the test standards, the manufacturers will make a final selection of the testing facility. The testing would be initiated within 6 months after the effective date of the final Phase II rule. Final reports of the probe studies will be submitted by week 36 for rabbits and week 37 for rats. The final report for the complete study on rabbits will be submitted by week 61. The final report for the complete study in rats will be submitted by week 70 (Ref. 5). EPA is proposing that this schedule be adopted for the developmental toxicity testing of TCEA.

As required by TSCA section 4(d), the Agency plans to publish in the **Federal Register** a notice of the receipt of any test data submitted under this test rule within 15 days after receipt of the data. Except as otherwise provided in TSCA section 14, such data will be made available for examination by any person.

IV. Issues for Comment

The Agency invites comments on the proposed study plans submitted by HSIA; copies of these study plans are included in the public record for this action. EPA also invites public comment on the proposed schedule for the required testing.

V. Public Record

EPA has established a record for this rulemaking, [docket number (OPTS–42059A)]. This record includes basic information considered by the Agency in developing this proposal and appropriate **Federal Register** notices. The Agency will supplement the record with additional information as it is received.

This record includes the following information:

A. Supporting Documentation

(1) Final Phase I rule on 1,1,1-trichloroethane.

(2) Written public comments and letters.

(3) Contact reports of telephone conversations.

B. References

(1) HSIA. Protocol. 1,1,1-Trichloroethane (TCEA): Inhalation Developmental Toxicity Probe Study in Rats. Halogenated Solvents Industry Alliance. Washington, D.C. January 1985. Submitted to EPA February 21, 1985.

(2) HSIA. Protocol. 1,1,1-Trichloroethane (TCEA): Inhalation Developmental Toxicity Study in Rats. Halogenated Solvents Industry Alliance. Washington, D.C. January 1985. Submitted to EPA February 21, 1985.

(3) HSIA. Protocol. 1,1,1-Trichloroethane (TCEA): Inhalation Developmental Toxicity Study Probe Study in Rabbits. Halogenated Solvents Industry Alliance. Washington, D.C. January 1985. Submitted to EPA February 21, 1985.

(4) HSIA. Protocol. 1,1,1-Trichloroethane (TCEA): Inhalation Developmental Toxicity Study in Rabbits. Halogenated Solvents Industry Alliance. Washington, D.C. January 1985. Submitted to EPA February 21, 1985.

(5) HSIA. Letter from H. Farber to J. Moore, OPTS, USEPA. April 17, 1985.

(6) Southern District of New York. Final Judgement and Order in *NRDC* v. *EPA*. 595 F. Supp. 1255 (S.D.N.Y., Oct. 30, 1984).

(7) HSIA. Letter to USEPA from Halogenated Solvents Industry Alliance. December 20, 1984.

The record is available for inspection from 8 a.m. to 4 p.m., Monday through Friday except legal holidays, in Rm. E–107, 401 M Street SW., Washington, DC 20460.

VI. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. This test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order. The economic analysis of the testing of TCEA is discussed in the Phase I test rule (49 FR 39810).

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments received from OMB are included in the public record for this rulemaking.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.*, Pub. L. 96–354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses for the following reasons:

1. There are not a significant number of small businesses manufacturing TCEA.

2. Small processors will not perform testing themselves, or participate in the organization of the testing efforts.

3. Small processors will experience only very minor costs, if any, in securing exemption from testing requirements.

4. Small processors are unlikely to be affected by reimbursement requirements, and any testing costs passed on to small processors through price increases will be small.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq*, and has assigned OMB control number 2070–0033. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked "Attention: Desk Officer for EPA." The final rule package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 799

Testing, Environmental protection, Hazardous material, Chemicals.

Dated: July 31, 1985.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

It is proposed that 40 CFR Part 799 be amended as follows:

PART 799—[AMENDED]

1. The authority citation for Part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. By amending § 799.4400 by revising paragraph (d)(1)(ii) and adding new paragraph (d)(1)(iii) to read as follows:

§ 799.4400 1,1,1-Trichloroethane.

* * * * *

(d) * * *

(1) * * *

(ii) *Test Standards.* The testing shall be conducted in accordance with the following study plans developed by the Halogenated Solvents Industry Alliance (HSIA), 1612 K St., NW., Washington, D.C. 20006, and submitted to the Agency on February 21, 1985: Inhalation Developmental Toxicity Probe Study in Rats, Inhalation Developmental Toxicity Study Rats, Inhalation Developmental Toxicity Probe Study in Rabbits, and Inhalation Development Toxicity Study in Rabbits which are incorporated by reference. Copies of these study plans are located in the public record for this rule (docket no. OPTS–42059A) and are available for inspection in the OPTS Reading Rm., E–107, 401 M Street SW., Washington, D.C. 20460, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. These study plans are hereby incorporated by reference.

These incorporations by reference were approved by the Director of the Federal Register on [date]. These materials are incorporated as they exist on the date of the approval, and a notice of any change in these materials will be published in the **Federal Register.**

(iii) *Reporting requirements.* (A) The developmental toxicity testing shall be initiated within 6 months of the effective date of the final Phase II rule.

(B) The developmental toxicity tests shall be completed and the final results submitted to the Agency within 16 months of the effective date of the final Phase II rule.

(C) Progress reports shall be submitted quarterly to the Agency.

* * * * *

[FR Doc. 85–18673 Filed 8–6–85; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2640

Federal Aviation Administration Airport Grants; Amendments To Comply With Statutory Changes

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking amends existing regulations at 43 CFR Part 2640 to reflect changes required by the Airport and Airway Improvement Act of September 3, 1982 (49 U.S.C. 2215). The rulemaking also revises the regulations to make them consistent with language of the Act, and to make changes in existing definitions to reflect changes in administrative policy concerning conveyance of lands for use as public airports.

DATE: Comments should be received by October 7, 1985. Comments received or postmarked after the above date may not be considered during the decision-making process for the development of a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, Main Interior Building, Room 5555, 1800 C Street, N.W., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mark D. Etchart, (202) 343–8693.

SUPPLEMENTARY INFORMATION: Section 516 of the Airport and Airway Improvement Act of September 3, 1982, provides that the Secretary of Transportation may file requests with the Secretary of the Interior, among others, for conveyance of Federally-owned lands to public agencies when the Secretary of Transportation determines that such lands are reasonably necessary for carrying out projects under the Act. The proposed rulemaking at 43 CFR Part 2640 establishes procedures for making application under the Act for lands under the jurisdiction of the Department of the Interior.

This proposed rulemaking specifies procedures to be used when application for conveyance of such lands is made by the Secretary of Transportation, and also provides procedures for public notice of the proposed conveyance, discusses issues to be considered by the

Bureau of Land Management authorized officer in determining whether to make the conveyance, and requirements for payment of administrative costs associated with such conveyance. Specific sections are discussed below.

Subpart 2640

This subpart is retitled, "The Airport and Airway Improvement Act of September 3, 1982", to reflect enactment of new legislation.

Section 2640.0–1 Purpose. This section identifies the purpose of these regulations.

Section 2640.0–3 Authority. This section cites the authority for issuing regulations to implement the Airport and Airway Improvement Act.

Section 2640.0–5 Definitions. This section is revised to reflect the change in the name of the Federal Aviation Agency to the Federal Aviation Administration, and changes in delegations of authority.

Section 2541.1 Request by Administrator for a conveyance of property interest. This section prescribes the documentation necessary for filing a request with an authorized officer of the Bureau of Land Management for a conveyance of lands under the Airport and Airways Improvement Act. Requirements include furnishing the Bureau a copy of the application filed with the Federal Aviation Administration by the requesting public agency, and a description of the lands involved.

Section 2641.2 Action on the request. This section of the proposed rulemaking describes what requirements the authorized officer is required to consider in determining whether the request is consistent with the needs of the Department of the Interior, and what covenants, terms and conditions, and restrictions may be required. This section also specifies that such conveyances shall be made subject to valid existing rights.

This section also provides that, unless specifically authorized by law, lands owned or controlled by the United States within any national park, national monument, national recreation area, or similar area under the jurisdiction of the National Park Service, or lands within any unit of the National Wildlife Refuge System, or lands within a designated wilderness area or a wilderness study area, or an Indian reservation shall not be conveyed under this subpart.

Section 2641.3 Publication and payment. The section requires submission of a deposit in an amount to be determined by the authorized officer to cover the administrative costs of processing the application and issuing a document of conveyance, as well as the cost of publication of a notice in the **Federal Register** and a newspaper of general circulation in the area in which the lands are located. This section also provides for refunds of payments made by applicants when administrative costs are less than the amount of the payment made.

Section 2641.4 Approval of conveyance. This section provides that the authorized offcer shall make a decision concerning approval of the application following receipt of payment required under section 2641.1 of this title, and not less than 45 days following publication of the required notice.

Section 2641.5 Reversion. This section provides for reversion to the United States, at the option of the administrator, if the property interest conveyed is not developed for airport purposes or used for an approved project as defined in the Airport and Airway Improvement Act.

The principal author of this proposed rulemaking is Mark D. Etchart, Division of Lands, assisted by the staff of the Office of Legislation and Regulatory Management, all of the Bureau of Land Management.

Based upon the environmental assessment and the finding of no significant impact, it is hereby determined that this rulemaking does not contitute a major Federal action significantly affecting the quality of the human environment and that a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

There are no new information collection requirements contained in this proposed rulemaking which require clearance by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 43 CFR Part 2640

Administrative practice and procedure, Airports, Public lands—grants.

Under the authority of section 516 of the Airport and Airway Improvement Act of September 3, 1982 (49 U.S.C. 2215), it is proposed to amend Subparts 2640 and 2641, Part 2640, Group 2000, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

PART 2640—[AMENDED]

1. The authority citation for part 2640 is added to read:

Authority: Section 516 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. 2215).

2. Subparts 2640 and 2641 are revised to read:

Subpart 2640—Airport and Airway Improvement Act of September 3, 1982

Sec.

Subpart 2641—Procedures

Subpart 2640—Airport and Airway Improvement Act of September 3, 1982

§ 2640.0–1 Purpose.

This subpart sets forth procedures for the issuance of conveyance documents for lands under the jurisdiction of the Department of the Interior to public agencies for use as airports and airways.

§ 2640.0–3 Authority.

Section 516 of the Airport and Airway Improvement Act of September 3, 1982 (49 U.S.C. 2215).

§ 2640.0–5 Definitions.

As used in this subpart, the term:

(a) "Act" means section 516 of the Airport and Airway Improvement Act of September 3, 1982 (49 U.S.C. 2215).

(b) "Secretary" means the Secretary of the Interior.

(c) "Authorized officer" means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this subpart.

(d) "Administrator" means the person authorized by the Secretary of Transportation to administer the Act.

(e) "Applicant" means any public agency as defined in § 153.3 of title 14 of the Code of Federal Regulations, which, either individually or jointly with other such public agencies, submits to the Administrator an application requesting that lands under the jurisdiction of the Department of the Interior be conveyed to such applicant under the Act.

(f) "Property interest" means the title to or any other interest in lands or any

easement through or other interest in air space.

§ 2640.0-7 Cross reference.

The regulations of the Federal Aviation Administration under the Act are found in 14 CFR Part 153.

Subpart 2641—Procedures

§ 2641.1 Request by Administrator for conveyance of property interest.

Each request by the Administrator in behalf of the applicant for conveyance of a property interest in lands under the jurisdiction of the Department of the Interior shall be submitted to the Bureau of Land Management in duplicate, and shall contain the following:

(a) A copy of the application filed by the requesting public agency with the Administrator.

(b) A description of the lands, if surveyed, by legal subdivisions, specifying section, township, range, meridian and State. Unsurveyed lands shall be described by metes and bounds with a tie to a corner of the public-land surveys if within two miles; otherwise a tie shall be made to some prominent topographic feature and the approximate latitute and longitude shall be provided.

§ 2641.2 Action on request.

(a) Upon receipt of the request from the Administrator, the authorized officer shall determine whether the requested conveyance is inconsistent with the needs of the Department of the Interior, or any agency thereof, and shall notify the Administrator of the determination within 4 months after receipt of the request. On determining that the conveyance is not inconsistent with the needs of the Department of the Interior, the authorized officer also shall determine what, if any, convenants, terms and conditions should be included in the conveyance, if made. Any conveyance shall be made subject to valid existing rights of record, and to those disclosed as a result of publication or otherwise.

(b) Unless otherwise specifically provided by law, no conveyance shall be made of Federal lands within any national park, national monument, national recreation area, or similar area under the administration of the National Park Service; within any unit of the National Wildlife Refuge System or similar area under the jurisdiction of the United States Fish and Wildlife Service; within any area designated part of the National Wilderness Preservation System or any area designated as a wilderness study area; or within any national forest or Indian reservation.

(c) The applicant shall, upon request by the authorized officer, submit a deposit in an amount determined by the authorized officer, to cover the administrative costs of processing the application and issuing a document of conveyance.

(d) Each applicant also shall pay the cost of publication of a notice in the **Federal Register** and in a newspaper of general circulation in the area in which the lands are located.

§ 2641.3 Publication and payment.

(a) Prior to issuance of a conveyance document, the authorized officer shall publish a notice in the **Federal Register** and in a newspaper of general circulation in the area of the lands to be conveyed. The notice shall identify the lands proposed for conveyance and contain the terms, covenants, conditions and reservations to be included in the conveyance document. The notice shall provide public comment period of 45 days from the date of publication in the **Federal Register**. Comments shall be sent to the Bureau of Land Management office issuing the notice.

(b) The determination concerning the granting or denial of an application shall be sent by the authorized officer to the applicant and to any party who commented on the application.

(c) The authorized officer shall advise the applicant whether any balance is due on the payments required of the applicant and of the time within which payment shall be made. Failure to pay the required amount within the allotted time shall constitute grounds for rejection of the application. If the applicant has deposited with the authorized officer an amount in excess of the payments required, the authorized officer shall so advise the applicant and return the excess payment.

§ 2641.4 Approval of conveyance.

(a) Each conveyance document shall contain appropriate covenants, terms and conditions requested by the Administrator, and those required for protection of the Department of the Interior or any agency thereof.

(b) Upon receipt of the payment required by §§ 2641.1 (c) and (d) of this title and after consideration of comments received, the authorized officer shall make a decision upon the application. If the decision is to make a conveyance, the authorized officer shall send the conveyance document to the Attorney General of the United States for consideration. Upon approval by the Attorney General, the authorized officer issue the conveyance document.

§ 2641.5 Reversion.

A conveyance shall be made only on the condition that, at the option of the Administrator, the property interest conveyed shall revert to the United States in the event that the lands in question are not developed for airport or airway purposes or are used in a manner inconsistent with the terms of the conveyance. If only a part of the property interest conveyed is not developed for airport purposes, or is used in a manner inconsistent with the terms of the conveyance, only that particular part shall, at the option of the Administrator, revert to the United States.

J. Steven Griles,

Deputy Assistant Secretary of the Interior.

May 6, 1985.

[FR Doc. 85-18676 Filed 8-6-85; 8:45 am]

BILLING CODE 4110-84-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 651

Atlantic Groundfish; Cod, Haddock, and Yellowtail Flounder; Correction

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of a Secretarial Amendment; correction.

SUMMARY: This document corrects the date given for submitting comments on a Secretarial Amendment to the Interim Fishery Management Plan for Atlantic Groundfish that was published July 18, 1985, 50 FR 29241.

FOR FURTHER INFORMATION CONTACT: Mark Millikin, 202-634-7449.

In FR Doc. 85-17137, page 29241, second column under the **"DATE"** heading, the sentence should read "Comments on the amendment should be submitted on or before September 27, 1985."

Dated: August 2, 1985.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 85-18738 Filed 8-6-85; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 50, No. 152
Wednesday, August 7, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

August 2, 1985.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, D.C. 20250, (202) 447-2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• Agricultural Marketing Service
Irish Potatoes Grown in Modoc and Siskiyou Counties, California, and in all counties in Oregon Except Malheur County (Maketing Agreement and Order No. 947)
Administrative Committee forms; not U.S. Government forms
Recordkeeping; On occasion
Farms; Businesses or other for-profit; 146 responses; 19 hours; not applicable under 3504(h)
Charles W. Porter (202) 447-2615.

• Agricultural Marketing Service
Domestic Dates Produced or Packed in Riverside County, California
Marketing Order 987
Committee Report Forms
Recordkeeping; On occasion; Monthly; Annually
Businesses or other for-profit; 565 responses; 250 hours; not applicable under 3504(h)
Frank Grasberger (202) 447-5053

• Animal and Plant Health Inspection Service
Animal Welfare Recordkeeping
VS Forms 18-19 and 18-5
Recordkeeping
Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 6,644 recordkeepers; 15,990 hours; not applicable under 3504(h)
Morley H. Cook (301) 436-8423

• Rural Electrification Administration
Construction Work Plan and Cost Distribution—Telephone
REA Forms 157, 158 and 159
On occasion
Small businesses or organizations; 2,800 responses; 2,100 hours; not applicable under 3504(h)
John Soma (202) 382-8529

• Rural Electrification Administration
Statement of Engineering Fee—Telephone
REA Form 506
On occasion
Small businesses or organizations; 150 responses; 300 hours; not applicable under 3504(h)
John D. Soma (202) 382-8529

• Rural Electrification Administration
Tabulation of Materials furnished by Borrowers
REA Form 281
On occasion
Small businesses or organizations; 125 responses; 150 hours; not applicable under 3504(h)
John D. Soma (202) 382-8529

• Rural Electrification Administration
Checklist for Plans and Specifications, Telephone System Construction Contracts
REA Form 553
Annually
Small businesses or organizations; 175 responses; 175 hours; not applicable under 3504(h)
John D. Soma (202) 382-8529

New

• Federal Grain Inspection Service
Report of Grain Inspected and Weighed for Export, Form FGIS 938
FGIS Form 938
Weekly; Whenever an agency certificate and export lot of grain State or local governments; Businesses or other for-profit; Federal agencies or employees; 3,125 responses; 1,042 hours; not applicable under 3504(h)
Michael Gavron (202) 382-1741

Revision

• Rural Electrification Administration
Telephone Interconnects
REA Forms 809 and 810
On occasion
Small businesses or organizations; 300 responses; 400 hours; not applicable under 3504(h)
John D. Soma (202) 382-8529

• Rural Electrification Administration
Summary of Work Orders and Construction Completed
REA Forms 771, 771a, 778 and 778a
On occasion
Small businesses or organizations; 3,700 responses; 2,940 hours; not applicable under 3504(h)
John D. Soma (202) 382-8459

Jane A. Benoit,
Departmental Clearance Officer.
[FR Doc. 85-18726 Filed 8-6-85; 8:45 am]
BILLING CODE 3410-01-M

Forest Service

Gila National Forest Land and Resource Management Plan; Environmental Impact Statement; Extension of Comments Period

Due to public requests and a request by the State of New Mexico the end of the public comment period for the Draft

Environmental Impact Statement on the Gila National Forest Land and Resource Management Plan is being extended from the original date of September 8, 1985 to October 8, 1985.

For further information contact: Gerald A. Engel, Land Management Planner, 2610 North Silver Street, Silver City, New Mexico 88061; telephone 505–388–8201.

Dated: July 31, 1985.

Kenneth C. Scoggin,

Forest Supervisor.

[FR Doc. 85–18672 Filed 8–6–85; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Environmental Impact Statement; Little River Watershed, SC; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Little River Watershed, Laurens County, South Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Billy Abercrombie, State Conservationist, Soil Conservation Service, 1835 Assembly Street, Room 950, Columbia, South Carolina 29201, telephone (803) 765–5681.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Billy Abercrombie, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for flood control in the City of Laurens. The planned works of improvement include 12 small floodwater retarding dams and 1.1 miles of channel enlargement.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Billy Abercrombie.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Billy Abercrombie,

State Conservationist.

August 1, 1985.

[FR Doc. 85–18736 Filed 8–6–85; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

Management-Labor Textile Advisory Committee; Partially Closed Meeting

A meeting of the Management-labor Textile Advisory Committee will be held on Tuesday, August 13, 1985, at 1:00 p.m., Winder Building, Room 403, 600 17th Street, NW., Washinton, DC 20506. (The Committee was established by the Secretary of Commerce on October 18, 1961 to advise Department Officials on problems and conditions in the textile and apparel industry.)

General Session: 1:00 p.m. Review of import trends, international activities, report on conditions in the market, and other business.

Executive Session: 2:00 p.m. Discussion of matters properly classified under Executive Order 12356 (3 CFR Part 166 (1982) and listed in U.S.C. 552b (c)(1) and (9)).

The general session will be open to the public with a limited number of seats available. A Notice of Determiniation to close meetings or portions of meetings to the public on the basis of 5 U.S.C. 552b (c)(1) and (c)(9) has been approved in accordance with the Federal Advisory Committee Act. A copy of the notice is available for public inspection and copying in the Central Reference and Records Inspeciton Facility 6626, U.S. Department of Commerce (202)377–3031.

For further information or copies of the minutes contact Helen LeGrande (202)377–4217.

Dated: August 6, 1985.

Walter C. Lenahan,

Deputy Assistant Secretary for Textiles and Apparel.

FR Doc. 85–18862 Filed 8–6–85; 9:48 am]

BILLING CODE 3510–DR–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Limit for Certain Cotton Textile Products Produced or Manufactured in the Arab Republic of Egypt; Correction

August 2, 1985

On July 16, 1985 a notice was published in the **Federal Register** (50 FR 28831, which announced that the import restraint limit for cotton yarns in Category 300/301, produced or manufactured in Egypt and exported to the United States in 1985 was being reduced to 8, 030,352 pounds to account for carryforward used in the category during the agreement year which began on January 1, 1984. This amount should be corrected in both the notice document and the letter to the Commissioner of Customs which followed that notice to read "8,097,552 pounds."

Walter C. Lenanhan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85–18714 Filed 8–6–85; 8:45 am]

BILLING CODE 3510–DR–M

Requesting Public Comment on Bilateral Consultations on Trade in Category 632 From Taiwan

August 2, 1985.

On July 10, 1985, the American Institute in Taiwan (AIT), under section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), requested the Coordination Council for North American Affairs (CCNAA) to enter into consultations concerning exports to the United States of man-made fiber hosiery in Category 632, produced or manufactured in Taiwan.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of man-made fiber textile products in this category, produced or manufactured in Taiwan and exported to the United States during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985.

Anyone wishing to comment or provide data or information regarding the treatment of Category 632 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information subitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington DC, and may be obtained upon request.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 533(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-18715 Filed 8-6-85; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of information collection.

SUMMARY: The Commodity Futures Trading Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

ADDRESS: Persons wishing to comment on this information collection should contact Katie Lewin, Office of Management and Budget, Room 3235, NEOB, Washington, D.C. 20503, (202) 395-7231. Copies of the submission are available from Joseph G. Salazar, Agency Clearance Officer, (202) 254-9735.

Title: Regulations and Forms Pertaining to the Financial Integrity of the Marketplace.

Abstract: The purposes of the Commission's financial regulations is to enable the Commission to monitor the financial stability of futures commission merchants (FCM's) and introducing brokers. Proposed new rule 1.64 requires and FCM to maintain a written agreement in the case of an account guaranteed by someone other than the account owner, and also maintain an opinion of counsel that the written agreement constitutes a binding guarantee under applicable local law.

Control Number: 3038-0024.

Action: Revision.

Respondents: Businesses (excluding small businesses).

Estimated Annual Burden: 1,200 hours for the proposed rule.

Estimated Number of Respondents: 400.

Issued in Washington, D.C., on August 1st, 1985.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-18679 Filed 8-6-85; 8:45 am]

BILLING CODE 6351-01-M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of information collection.

SUMMARY: The Commodity Futures Trading Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

ADDRESS: Persons wishing to comment on this information collection should contact Katie Lewin, Office of Management and Budget, Room 3235, NEOB, Washington, D.C. 20503, (202) 395-7231. Copies of the submission are available from Joseph G. Salazar, Agency Clearance Officer, (202) 254-9735.

Title: Regulations Pertaining to the Responsibilities of Contract Markets and their Members.

Abstract: The regulations included within this control number impose recordkeeping and reporting requirements on contract markets and other self-regulatory organizations. The proposed regulation would require certain contract markets each month to calculate and publish a standard fluctuation factor for certain of the commodities traded on those markets.

Control Number: 3038-0022.

Action: Revision.

Respondents: Businesses (excluding small businesses).

Estimated Annual Burden: An additional 1,200 hours would be spent by contract markets.

Estimated Number of Respondents: 10.

Issued in Washington, D.C., on August 1, 1985.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-18680 Filed 8-6-85; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF EDUCATION

National Institute of Handicapped Research

Final Funding Priorities for Research Fellowships for Fiscal Year 1985

AGENCY: Department of Education.

ACTION: Notice of Final Funding Priorities for Research Fellowships for Fiscal Year 1985.

SUMMARY: The Secretary of Education adopts final funding priorities for research fellowships to be supported by the National Institute of Handicapped Research (NIHR) in Fiscal Year 1985. NIHR funds some fellowships without specifying priority areas, but the regulations provide that the Secretary may set priorities when there are critical areas to be addressed. The Secretary has determined that research fellows are needed in the areas listed below.

Authority for the fellowship program of NIHR is contained in section 202(d) of the Rehabilitation Act of 1973, as amended by Pub. L. 95-602 and by Pub. L. 98-221.

EFFECTIVE DATE: These priorities will take effect either 45 days after publication in the Federal Register or later if Congress takes certain adjournments. If you want to know the effective date of these priorities, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Betty Jo Berland, National Institute of Handicapped Research, Department of Education, 400 Maryland Avenue, S.W., Room 3070, Mail Stop 2305, Washington, D.C. 20202. Telephone (202) 732-1139; deaf and hearing impaired individuals may call (202) 732-1198 for TTY services.

SUPPLEMENTARY INFORMATION: The purpose of this program is to build research capacity and also to allow the Secretary to obtain the benefits of

research conducted by highly qualified individuals. This research has a direct bearing on the development of programs, methods, procedures, and devices to assist in the provision of rehabilitative services to individuals.

NIHR fellowship regulations in 34 CFR Part 356, (46 FR 45312, September 10, 1981, as amended June 18, 1984 at 49 FR 24978), authorize the Secretary to establish priorities for fellowships by reserving funds to support fellowships in particular areas. The Secretary intends to fund some fellowships without regard to these priorities as well as to fund some in response to these priorities.

Summary of Comments and Responses

On May 9, 1985 five priorities were published in the **Federal Register** at 50 FR 19660–19661. The Department received eight letters of comment on the proposed priorities. These comments and the Secretary's response to the comments are discussed below.

Comment. One commenter proposed a multivariate analysis approach in the area of transitional and supported employment.

Response. No change has been made. The priority is for policy analysis. Applicants are free to suggest any approach to implementing the requirements of the priority.

Comment. One commenter suggested that NIHR announce a priority for a fellow in Clinical Management of Mental Retardation Systems, arguing that there is a great need for simplification of the paperwork requirements in the field.

Response. No change has been made. While the Secretary agrees that this may be an important problem, it is not clear that it is appropriate for a policy research fellowship. These priorities are based on program planning questions facing the Department.

Comment. One commenter stated that the proposed priorities reflected a narrow emphasis on medical diagnoses and vocational rehabilitation, and suggested that NIHR instead concentrate studies on prejudice and discrimination as components of national policy.

Response. No change has been made. While the Secretary concurs that the effects of societal factors on the social and economic conditions of disabled people are significant, he believes that the announced priorities are of paramount concern to the Department at this time. NIHR funds a number of other research activities which do deal with issues of societal attitudes and policy discrepancies

Comments. Two commenters objected to the concept of any priorities in this program, stating that established priorities are too limiting and likely to restrict creativity.

Response. No change has been made. The Secretary has the option of announcing priority areas when research is needed in specific issue areas. NIHR has conducted one open fellowship competition this year, and will from time to time conduct both open fellowship competitions and competitions based on priorities.

Comment. One commenter objected to the priorities as perpetuating narrow diagnostic categories and too much vocational emphasis, and argued for more emphasis on issues such as civil rights and the consistency of disability policies. This individual also objected that each priority statement did not repeat the emphasis on policy analysis.

Response. No change has been made. The Secretary agrees that civil rights and consistent, integrated policy are important issues. However, the Secretary also believes that it is necessary to make a thorough assessment of the impact of existing policies and policy alternatives before conclusions can be reached about directions of policy changes. Vocational rehabilitation is one of many important concerns of NIHR. The priorities are prefaced by a statement that the emphasis of all the priorities is policy analysis, and each priority contains further specific reference to policy studies.

Comment. One commenter suggested a priority for long-term conversational therapeutic treatment of families with handicapped children and urged that monies be made available for this through block grants to States.

Response. No change has been made. NIHR fellowship priorities are for discretionary programs of research, not for services. NIHR does fund research on problems of families with disabled children.

Comment. One commenter suggested combining the priorities in Community Mental Retardation Services and Transitional and Supported Employment.

Response. No change has been made. While the Secretary agrees that the question of service integration is worth study, it can be explored in the context of one or the other or the priorities. Further, there is still a need for in-depth investigation in each of these two priority areas.

Comment. One commenter suggested that research on the role of the allied health professions in the delivery of rehabilitation services should be a priority.

Response. No change has been made. The commenter presented a concept which could be pursued under NIHR's open fellowship program or under the Field-Initiated or Innovation Grants programs. Fellowship priorities were selected in areas in which policy research is important for NIHR in setting future research directions.

Comment. One commenter suggested that there be a priority for research on mental health services to the deaf population.

Response. No change has been made. The Secretary notes that NIHR has funded other research addressing this problem. The five fellowship priorities represent areas in which NIHR intends to support policy research through special fellowships. NIHR has funded eight other fellowships in fiscal year 1985 in areas initiated by the applicant.

Final Priorities

The following five final priorities represent areas in which NIHR will support research and related activities through special fellowships.

In each of the following priority areas, the fellow will conduct research on the nature, scope, and consequences of current Federal, State, and local policies and practices, and analyze possible alternatives.

- *Fellow in Community Mental Retardation Services*

A fellow in this area will conduct research which will analyze policies of Federal, State, and local governments on community-based services for mentally retarded individuals focusing on one or more of the following areas:

—Alternative means of providing residential assistance, with special emphasis on housing options for individuals in transitional employment programs.
—Use of innovative programs and services such as community colleges, independent living programs, volunteer programs using retired persons, youth and others, and "loan" programs from labor and industry.
—Implications of technology for improving services and service delivery.

- *Fellow in Transitional and Supported Employment*

A fellow in this area will research options and practices and analyze relative benefits of alternative future directions in research and services in one or more of the following areas:

—Trends in transition programs emphasizing "learning-on-the-job" at competitive worksites, work-study,

cooperative work, and similar programs.
—Alternative approaches to providing ongoing assistance and support at the worksite.

The fellow might also review research and evaluation studies and compile demographic and statistical data on transitional and supported work, including effects on labor market participation and disability income transfers.

• *Fellow in Early Intervention*

A fellow in this area will conduct research studies on services to disabled or at-risk children from birth to age three and analyze strategies for early intervention programs. Work in this area will include research on one or more of the following topics:
—Guidelines for training personnel to work in early intervention programs, including curriculum requirements.
—Evaluative research to determine appropriate instructional strategies for infants and for ecological approaches to early intervention.
—Systems for coordination among health care providers, social services, rehabilitation services, educational systems, and resource information services for disabled children.

• *Fellow in Medical Research*

A fellow in this area will conduct analytical studies based on the National Spinal Cord Injury Data Base which is maintained by the 17 Spinal Cord Injury Projects supported by NIHR. Aspects of the research will include: Analysis of the cost-effectiveness data included in the data files; studies of complications which have both high incidence and a high associated cost; analyses of the clinical evaluation data available through the system; and analyses of strategies for future research in spinal cord injury and central nervous system trauma.

• *Fellow in Disability Statistics*

A fellow in this area will analyze demographic and other data to provide important information related to disability and rehabilitation research. Such a fellow will conduct studies in one or more of the following areas:
—Evaluation of major federal surveys and data bases and determination of priorities for secondary analysis.
—Examination of the feasibility of adding disability-related queries to proposed federal surveys, and development of sample questionnaire items and data analysis plans.
—Analysis of studies at the sub-national level to determine the feasibility of extrapolating to national estimates, the development of such estimates, and a pilot survey and evaluation of State data bases containing disability-related statistics.
—Development of national estimates of incidence, prevalence, and related characteristics for major disability groups, and/or in-depth analyses in one or more areas of disability.

(Catalog of Federal Domestic Assistance No. 84.133, National Institute of Handicapped Research)

(20 U.S.C. 761a, 762)

Dated: August 2, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85-18758 Filed 8-6-85; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Fossil Energy

Executive Committee and Finance Committee of the National Coal Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following joint meeting:

Name: Executive Committee and Finance Committee of the National Coal Council.

Date and time: Friday, August 23, 1985; 10:00 a.m. to 1:00 p.m.

Place: The Dulles Marriott Hotel, Chantilly, Virginia.

Contact: Cecilia MacCarthy, U.S. Department of Energy, Office of Fossil Energy (FE-23), Germantown, Maryland 20545. Telephone: 301/353-2847.

Purpose of the Parent Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Tentative agenda:

• Opening Remarks by the Chairman of the Joint Session.
• Council Staffing.
• Council Budget.
• Member Dues.
• Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.
• Public Comment—10 minute rule.
• Adjournment.

Public Participation: The meeting is open to the public. The Chairman of the joint session is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Cecilia MacCarthy at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 9:00 a.m., and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on August 2, 1985.

J. Robert Franklin,

Deputy Advisory Committee, Management Officer.

[FR Doc. 85-18741 Filed 8-6-85; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-85-002; OFP Case No. 55118-9263-20-24]

General Electric Co.; Order Granting Exemption From Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order granting to General Electric Company exemption from prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"), to General Electric Company (GE or "the petitioner") of Texas City, Texas. The permanent cogeneration exemption permits the use of natural gas as the primary energy source for a proposed GE facility located in Texas City, Texas. The facility will be located on land belonging to Monsanto's chemical plant in the city of Texas City, Galveston County, Texas. The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: The order shall take effect on October 6, 1985. The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue SW., Room 1E-190, Washington, D.C. 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Frank Duchaine, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue SW., Room GA-045,

Washington, D.C. 20585, Telephone (202) 252–8233

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building—Room 6A–113, 1000 Independence Avenue, SW., Washington, D.C. 20585, telephone (202) 252–6947.

SUPPLEMENTARY INFORMATION: The proposed facility is a gas turbine, heat recovery steam generator (HRSG) and an extraction condensing steam turbine generator installation which will supply steam to Monsanto's processes. It is anticipated that the power generated by the facility will be sold to a utility in Texas. The cogeneration plant system will consist of four gas turbine generators coupled to four supplementary-fired HRSGs and also a single shaft tandem compound single automatic extraction/admission double flow low pressure section condensing steam turbine generator. Steam supply to Monsanto's processes during peak (emergency) demand periods approaches 1.4×10^6 pph.

Plant size and the number of gas turbine/HRSG units is determined by continuity of steam flow to Monsanto's processes. With all cogeneration plant systems operating and the HRSGs unfired, the normal process steam demands are easily met and the available steam not required by the processes is used to generate electrical power via the steam turbine generator. By curtailing steam flow to the steam turbine generator, 10^6 pph steam can be delivered to processes with the HRSGs unfired. By curtailing steam flow to the steam turbine generator and firing the four HRSGs, the peak steam demand of 1.4×10^6 pph can be supplied by the cogeneration plant.

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including GE's certification to ERA, in accordance with § 503.37(a)(1), that:

1. The oil or natural gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the proposed powerplant in accordance with 10 CFR 503.37(a)(1)(i); and

2. The use of a mixture of natural gas and coal or oil and coal in the cogeneration facility will not be technically feasible, in accordance with 10 CFR 503.37(a)(1)(ii).

Procedual Requirements

In accordance with the procedual requirements of Section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on March 22, 1985 (49 FR 35221), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on May 6, 1985; no comments were received and no hearing was requested.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA).

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that GE has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to GE to permit the use of natural gas as the primary energy source for its cogeneration facility in Texas City, Texas.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, D.C., on July 31, 1985.

Robert L. Davies,

Director, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85–18694 Filed 8–6–85; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 85–15–NG]

Westcoast Resources Inc.; Application to Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for blanket authorization to import natural gas from Canada for short-term and spot sales.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on July 23, 1985, of an application filed by Westcoast Resources Inc. (Westcoast) for blanket authorization to import up to 50 Bcf per year of Canadian natural gas for two years, beginning on the date of first delivery. The gas would be supplied by its parent corporation, Westcoast Transmission Company Limited (WTCL), and individual Canadian producers. Westcoast intends to import and sell the gas and to act as an agent for the sale of gas owned by others. Customers would include gas distributors, pipelines, electric utilities and industrial and agricultural end-users. Westcoast would also act as a broker for U.S. gas purchasers and Canadian suppliers. The terms of each import and sale would be negotiated on an individual basis including the price, volume, length of the arrangement, take-or-pay provisions and contract adjustment provisions. Westcoast proposes to make quarterly reports to the ERA.

The application was filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed no later than 4:30 p.m., on September 6, 1985.

FOR FURTHER INFORMATION CONTACT:

Olga Ronkovich, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–007, 1000 Independence Avenue SW., (202) 252–9482

Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–6667.

SUPPLEMENTARY INFORMATION: On July 23, 1985, Westcoast filed an application for blanket authorization to import up to 50 Bcf per year of Canadian natural gas for two years, beginning on the date of first delivery. The applicant is a Delaware corporation whose principal place of business is in Vancouver, British Columbia, Canada. It is a wholly-owned subsidiary of Westcoast Petroleum Ltd., which, in turn, is a wholly-owned subsidiary of WTCL, a Canadian corporation which owns and operates an extensive natural gas

pipeline and gathering system within the province of British Columbia. The gas would be supplied by WTCL and individual Canadian producers. Westcoast intends to import this gas for direct sales to customers and to act as an agent for the sale of gas owned by others. Customers would include gas distributors, pipelines, electric utilities and industrial and agricultural end-users. Westcoast would also act as a broker for U.S. gas purchasers and Canadian suppliers.

According to the applicant, the specific terms of each sale would be negotiated on an individual basis including the price, volume, length of the arrangement, take-or-pay provisions and contract adjustment provisions.

Westcoast asserts that no new pipeline facilities will be required in order to import the gas. The point of importation will be primarily at Sumas, Washington. Transportation will be provided by Northwest Pipeline Corporation and other pipeline and distribution systems to the natural gas distributors or end-users.

The applicant proposes to file quarterly reports with the ERA. Each report would indicate for each month whether any transactions have been made and the details of such transactions including purchase and sale prices, volumes, any special contract price adjustments, duration of the agreements, ultimate sellers and purchasers, transporters, points of entry and markets served.

In support of its application, Westcoast asserts that the proposed import will be competitive and is not inconsistent with the public interest. The terms of each sale arrangement will ensure the competitiveness of the import in the market being served. According to the applicant, the proposed blanket authorization conforms to the policy of the DOE to foster the development of a short-term spot market. The import will lower unit transportation costs of pipeline systems and result in a greater sharing of fixed costs. Further, the import will provide an economical interruptible natural gas supply to industry which will mean cost savings to U.S. industry.

Westcoast maintains that it will not use the blanket authorization unless the gas is needed, competitive and marketable in the market to be served. Also, it will not enter into contracts without assurances that the supply is reliable.

This application is one of a number received by the ERA concerning purchases of imported gas for spot and short-term market opportunities. The authorization would provide the applicant with blanket import approval to negotiate and transact individual short-term sales arrangements without further regulatory action. In many respects, this application is similar to other blanket imports the ERA has recently approved.

Public comment on this application is encouraged by this notice. Intervention requirements will be liberally applied and the views expressed by interested parties will be given careful and thorough consideration in evaluating Westcoast's application. The decision on this application will be made consistent with the Secretary of Energy's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). The objective of this policy, with its strong emphasis on competitive arrangements and contract flexibility, is to free commercial parties from undue government interference in determining contract terms and reflects the importance of buyer-seller negotiation. Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant has asserted that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Other Information

In response to this notice, any person may file a protest, motion to intervene, or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Parts 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-033-B, RG-23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC. 20585. They must be filed no later than 4:30 p.m., September 6, 1985.

The Administrator intends to develop a decisional record on the application through responses to the notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision on the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts. If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Westcoast's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-033-B, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on July 31, 1985.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-18695 Filed 8-6-85; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Petroleum Product Sales Identification Survey; Proposed Form EIA-863

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Request for comment on proposed Form EIA-863, "Petroleum Product Sales Identification Survey."

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) is proposing Form EIA-863 (formerly EIA-764) to update the statistical frame used to select samples for surveys. The form will collect sales data from distillate fuel oil and residual fuel oil dealers and motor gasoline resellers in the United States.

Form EIA-863 will enable to EIA to identify new companies as well as companies that have gone out of business in the marketplace. Information for efficient sample designs and burden reduction will be collected on Form EIA-863.

DATES: Written comments must be received by EIA within 30 days of publication of this notice.

ADDRESS: Written comments should be sent to Paula Weir, Petroleum Marketing Division, Energy Information Administration, Department of Energy, EI-431, Room 2G-056, 1000 Independence Avenue, SW, Washington, D.C. 20585.

FOR FURTHER INFORMATION: To obtain further information or copies of the proposed Form EIA-863, contact (202) 252-1262.

SUPPLEMENTARY INFORMATION:

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. 93-275), the EIA is required to publish, and otherwise make available to the public, high quality statistical data that reflects national petroleum sales activity as accurately as possible. To meet this obligation, as well as internal DOE requirements that are dependent on accurate data, the EIA has developed statistical surveys that encompass each petroleum product sales activity in the U.S. Each survey is linked to a frame which identifies all relevant know petroleum product sellers.

Because the petroleum industry is a very dynamic economic sector, new firms are continually emerging as old firms are discontinuing operations. Consequently, a constant effort is necessary to maintain survey frames that can provide a basis for high quality national level statistics.

Information obtained from respondents to Form EIA-863 will be used to determine whether the respective EIA-863 respondents are in scope for petroleum marketing surveys and to create the frame for sampling purposes.

The Form EIA-863, "Petroleum Product Sales Identification Survey" is designed to collect 1985 sales data from fuel oil dealers and motor gasoline resellers in the United States. It is an important tool to be used to assure completeness and accuracy of EIA monthly and annual surveys.

The data obtained from Form EIA-863 will be used to construct an updated sampling frame for surveys published in the *Petroleum Marketing Monthly* and for other petroleum marketing sample surveys. The survey, which will be sent to approximately 45,000 respondents, will be conducted in 1986 to collect 1985 annual data. In particular, retail and wholesale sales volumes of No.2 distillate fuel oil, residual fuel oil, and motor gasoline will be collected by State.

The EIA-821, "Annual Fuel Oil and Kerosene Sales Report," will be modified pending the Office of Management and Budget approval, to include questions on motor gasoline sales so that reporters to the 1985 EIA-821 will not have to file the EIA-863. These efforts will allow a more efficient use of stratified sampling of companies yielding a reduction in overall respondent burden.

Request for Comments

EIA invites the public to comment on the new form within 30 days of the publication of this notice. A copy of Form EIA-863 is reproduced following this notice. The following general guidelines are provided to assist in the preparation of responses.

(As a potential respondent):

a. Are the instructions and definitions clear and sufficient?

b. Can the data be submitted using the definitions included in the instructions?

c. Can the data be submitted within 45 days of receipts, i.e., the response time specified in the instructions?

d. How many hours, including time for preparation and administrative review will your firm require to complete and submit a form?

3. What is the estimated cost of completing this form, including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

f. How can the form be improved?

g. Do you know of other Federal, State, or local agencies that collect similar data? If you do, specify the agency and the means of collection.

h. Would your company collect and organize the data required in the proposed form if the form were not required?

Comments submitted in response to this notice will be included in the request for Office of Managment and Budget approval of this data collection and will become a matter of public record.

Issued in Washington, D.C. July 28,1985.

Yvonne M. Bishop,

Director, Office of Statistical Standards, Energy Information Administration.

General Information

[Form EIA-863]

I. Purpose

Form EIA-863 is designed to obtain information on the size, type, and geographic location of fuel oil related business concerns.

II. Who Must Submit

Every firm that receives a form must complete it and submit it to the Department of Energy (DOE).

III. When to Submit

Submit this form by March 15, 1986.

IV. Where to Submit

Send the completed form to: Energy Information Administration, EI-431, Mail Station: BF-118 (Forrestal), U.S. Department of Energy, Washington, D.C. 20585.

If you have any question concerning this form, call 800 (999-9999).

V. Sanctions

The timely submission of Form EIA-863 by a firm is mandatory under section 13(b) of the Federal Energy Administration (FEA) Act of 1974, Pub. L. 93-275. Late filing, failure to file, failure to keep records, or failure otherwise to comply with these instructions may result in criminal fines, civil penalties, and other sanctions as provided by Section 13(i) of the FEA Act.

VI. Provision for Confidentiality of Information

Information on this form is collected for statistical purposes and will not be published by the DOE in individually identifiable form. However, upon receipt of a request for individually identifiable information, the DOE will follow the procedures listed below:

1. The information contained on this form will be kept confidential to the extent that it satisfies the criteria set forth in the Freedom of Information Act (FOIA) exemption for trade secrets and confidential commercial information and DOE regulations implementing the FOIA, and is prohibited from public release by the Trade Secrets Act, 18 U.S.C. 1905. Upon receipt of a request of disclosure of this information under the

FOIA, the DOE shall in accordance with the procedures and criteria provided in 10 CFR 1004.11 make a final determination whether this information is exempt from disclosure. To assist us in the determination, respondents should demonstrate to the DOE that their information constitutes trade secrets or commercial or financial information whose release would be likely to cause substantial harm to their company's competitive position. A letter accompanying the submission that explains (on an element-by-element basis, if possible) the reasons why the information would be likely to cause respondent substantial competitive harm if released to the public would aid in this determination.

2. Requests from other Federal agencies for information from this form shall be evaluated in accordance with DOE Policy on the Disclosure of Individually Identifiable Energy Information in the Possession of the EIA [45 FR 59812 (1980)]. Respondents should be aware that the information is also subject to release to State agencies for limited purposes and when the State can assure protection of the information from any further release.

3. Except as otherwise provided by law, the information will also be made available in response to an order of a Court of competent jurisdiction, or upon written request, to the Congress, any Committee of Congress, the General Accounting Office or other congressional agencies authorized by law to receive such information.

General Instructions

I. Enter your company name and identification number on the top of each page. Your identification number can be found on the upper left corner of the mailing label on page 1 of the form.

II. If you received more than one copy of Form EIA-863, write "duplicate" across Page 1 of the duplicate form and the identification number from the original form you completed.

III. Report the entire firm's sales of No. 2 distillate and residual fuel oils and motor gasoline. This includes sales made by the parent, divisions, branches, partnerships and subsidiaries.

Definitions

1. *Commissioned Agent*—An agent who wholesales or retails a refined petroleum product under a commission arrangment. The agent does not take title to the product or establish the selling price, but receives a percentage of fixed fee for serving as an agent.

2. *End-User*—A firm or individual which purchases products for its own consumption and not for resale (i.e., an ultimate consumer).

3. *Firm*—Any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity, however organized, including charitable or educational institutions, and the Federal Government including operations, departments, Federal agencies, and other instrumentalities, and State and local Governments.

4. *Motor Gasoline*—A mixture of volatile hydrocarbons, suitable for the operation of an internal combustion engine. Includes all grades of motor gasoline and gasohol.

5. *No. 2 Distillate*—A petroleum distillate which meets the specifications for No. 2 fuel oil as defined in ASTM D396 and/or the specifications for No. 2 diesel fuel as defined in ASTM D975.

6. *Non-End-User*—An individual or firm which purchases product for resale purpose and not for consumption (i.e., reseller).

7. *Parent*—A firm that directly or indirectly controls another entity.

8. *Residential End-User*—Those customers who purchase fuel oil for the specific puropse of heating their homes.

9. *Residual Fuel Oil*—Fuel oil grade No. 5 or No. 6 including heavy diesel, Navy Special, and Bunker C oils normally used for generating hear and/or power.

10. *Sale*—The transfer of title from the seller to a buyer for a price. Excludes intrafirm transfers, product consumed directly by the reporting firm, or sales of bonded fuel. Also excludes products delivered/loaned through exchange agreements except where the amount transferred exceeds the amount received and is in fact invoiced as a sale during the year.

11. *Subsidiary*—Entities directly or indirectly controlled by a parent.

BILLING CODE 6450-01-M

U.S. DEPARTMENT OF ENERGY
Energy Information Administration

Form Approved
OMB No.

EIA-863 PETROLEUM PRODUCT SALES IDENTIFICATION SURVEY

This report is mandatory under the authority of P.L. 93-275, the Federal Energy Administration Act of 1974. Late filing, failure to keep records, or failure otherwise to comply with these instructions may result in criminal fines, civil penalties, and other sanctions as provided by law. See instructions for provisions concerning confidentiality of data.

PART I. IDENTIFICATION DATA

Complete items 1 thru 8 FOR CORRECTIONS to label only.

1. Name
2. Name of Contact Person
3. Contact's Telephone Number ( ) –
4. P.O. Box/RFD
5. Street
6. City | 7. State | 8. Zip Code

9. Which of the following best describes this firm now?

(a) ☐ In operation sales include petroleum products... — *Skip to and complete Parts II and III*

(b) ☐ Sold or ☐ Leased or ☐ Merged with another — *Complete items 10 to 18 and Parts II and III for that portion of 1985 in which the firm was active under your ownership*

(c) ☐ Permanently ceased operation... — *Complete item 10 then skip to and complete Parts II and III for that portion of 1985 in which the firm was active under your ownership*

(d) ☐ Subsidiary of another..... — *Complete items 10 to 18, and Part II*

(e) ☐ Commissioned Agent.. — Complete items 11-18 and Part II

(f) ☐ Not in petroleum business..... — Skip to and complete Part II

10. Effective Date

Mo	Day	Yr

11. Name of Company Sold to (Leased to/Merged Subsidiary of /Agent For)
12. Name of Contact Person
13. Contact's Telephone Number ( ) –
14. P.O Box/RFD
15. Street
16. City | 17. State | 18. Zip Code

PART II. CERTIFICATION

I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge.

19. Name | 20. Title

21. Signature | 22. Date of Signing

Title 18 USC 1001 makes it a criminal offense for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious of fraudulent statements as to any matter within its jurisdiction.

EIA-863
(jp/85)

Name of Firm	ID Number	Reference Year	Sheet ____ of ____
		1985	

PART III

23. Did this firm sell Distillate and/or Residual fuel oil and/or Motor Gasoline during 1985? (1) ☐ Yes... Answer 24 (2) ☐ No... Skip to 25

24. Enter the firm's total annual volume of sales in 1985 for each state in actual gallons. Include all sales for divisions, branches, partnerships, or subsidiaries. Report a sale in the state where the transfer of ownership occurs. Sales volumes should be for the entire year of 1985. Sales to non end-users include all sales to those firms or individuals who are engaged in refining, reselling or retailing refined petroleum products. If you have sales in more than four states, use copies of Part III and attach to this page. See Page 3 for a list of states and their abbreviations.

Line No.	Fuel Type and Use	State of Sales (enter State Abbreviation) (1)	(2)	(3)	(4)
	Report in Actual Gallons				
	NO. 2 DISTILLATE SALES TO:				
a.	Residential End-users				
b.	Non Residential End-users				
c.	Non End-users (Resellers)				
d.	Total No. 2 Distillate (a+b+c)				
	RESIDUAL FUEL OIL (NO. 5 AND NO. 6 FUEL OIL) SALES TO:				
e.	End-users				
f.	Non End-users (Resellers)				
g.	Total Residual (e+f)				
	MOTOR GASOLINE SALES TO:				
h.	End-users				
i.	Non End-users (Resellers)				
j.	Total Motor Gasoline (h+i)				

25. Does this firm sell any of these petroleum products? Check boxes for all that you sell.

☐ Kerosene ☐ No. 1 Distillate ☐ Crude Oil

☐ Propane ☐ Other LPG

EIA-863(jp/85)

BILLING CODE 6450-01-M

List of Standard State Abbreviations

AL	Alabama	MO	Missouri
AK	Alaska	MT	Montana
AZ	Arizona	NE	Nebraska
AR	Arkansas	NV	Nevada
CA	California	NH	New Hampshire
CO	Colorado	NJ	New Jersey
CT	Connecticut	NM	New Mexico
DE	Delaware	NY	New York
DC	District of Columbia	NC	North Carolina
		ND	North Dakota
FL	Florida	OH	Ohio
GA	Georgia	OK	Oklahoma
HI	Hawaii	OR	Oregon
ID	Idaho	PA	Pennsylvania
IL	Illinois	RI	Rhode Island
IN	Indiana	SC	South Carolina
IA	Iowa	SD	South Dakota
KS	Kansas	TN	Tennessee
KY	Kentucky	TX	Texas
LA	Louisiana	UT	Utah
ME	Maine	VT	Vermont
MD	Maryland	VA	Virginia
MA	Massachusetts	WA	Washington
MI	Michigan	WI	Wisconsin
MN	Minnesota	WV	West Virginia
MS	Mississippi	WY	Wyoming

[FR Doc. 85-18478 Filed 8-6-85; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of a Proposed Decisions and Order; Period of June 10 Through June 28, 1985

During the period of June 10 through June 28, 1985, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved persons receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issurance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

July 25, 1985.

George B. Breznay,

Director Office of Hearing and Appeals.

Wakeland Oil Company, Owosso, Michigan. HEE-0115, Reporting Requirements

Wakeland Oil Company filed an Application for Exception from the provisions that require it to file Form EIA-782B with the Energy Information Administration. The exception request, if granted, would permit Wakeland Oil Company to be relieved of the requirements that it file Form EIA-782B. On June 24, 1985, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part to allow the firm to file a modified version of Form EIA-782B.

[FR Doc. 85-18696 Filed 8-6-85; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of June 28 Through July 5, 1985

During the Week of June 28 through July 5, 1985, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

July 25, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of June 28 through July 5, 1985]

Date	Name and location of applicant	Case No	Type of submission
July 1, 1985	Martin M. Young & Associates, Cincinnati, Ohio	HFA-0300	Appeal of an information request denial. If granted: The June 12, 1985, Freedom of Information Request Denial issued by the Oak Ridge Operations Office would be rescinded and Martin M. Young & Associates would receive a waiver of fees regarding its request for records relating to the Feed Materials Production Center in Fernald, Ohio.
July 5, 1985	Petro-Lewis/Enterprise Products Company, Houston, Texas	RR63-1	Request for modification/rescission. If granted: The April 9, 1985 Decision and Order issued to Enterprise Products Company (Case No. RF63-1) would be modified regarding the firm's application for refund submitted in the Petro-Lewis refund proceeding.
Do	Whitaker Oil Company, Atlanta, Georgia	HER-0107	Request for modification rescission. If granted: The February 22, 1985, Decision and Order (Case No. HEE-0029) issued to Whitaker Oil Company would be rescinded.

REFUND APPLICATIONS RECEIVED

[Week of June 28 to July 5, 1985]

Date received	Name of refund proceeding/ name of refund applicant	Case No
07/01/85	National Helium/Rhode Island	PQ3-209
07/01/85	Aminoil/Tri-State Propane	RF136-16
07/01/85	Aminoil/Kummerfeldt Service	RF139-17
07/01/85	Aminoil/McCoy's L.P. Gas	RF139-18

REFUND APPLICATIONS RECEIVED—Continued

[Week of June 28 to July 5, 1985]

Date received	Name of refund proceeding/ name of refund applicant	Case No
07/01/85	Aminoil/Lyall Electric, Inc	RF139-19
07/01/85	Aminoil/Warren Petroleum Co	RF139-20
07/02/85	Arkansas Louisiana/Arkansas Oklahoma	RF154-3

REFUND APPLICATIONS RECEIVED—Continued

[Week of June 28 to July 5, 1985]

Date received	Name of refund proceeding/ name of refund applicant	Case No
07/02/85	C.C. Dillon/Bennett Hills Automotive	RF148-6
07/02/85	Foster/Yeatick Corp	RF146-2
07/01/85	Aminoil/Land O'Lakes	RF139-22

REFUND APPLICATIONS RECEIVED—Continued

[Week of June 28 to July 5, 1985]

Date received	Name of refund proceeding/ name of refund applicant	Case No.
07/02/85	Warren Holding/Arments Brothers	RF169-3
07/03/85	Aminoil/Austin Gas Service Inc.	RF139-24
07/03/85	Aminoil/D & C LP Gas Company	RF139-23
07/03/85	C.C. Dillon/Lieber Service Stations.	RF148-7
07/03/85	Aminoil/Farmers Union Central Exchange, Inc.	RF139-25
07/05/85	Aminoil/Natrogas, Inc.	RF139-26
07/05/85	Aminoil/Enterprises Products Co.	RF139-27
07/05/85	Aminoil/J.O. Mory	RF139-28
07/05/85	Aminoil/Mobil Oil Corp.	RF139-29
07/03/85	National Helium/Ohio	RO3-212
07/03/85	Pennzoil/Ohio	RQ10-213
07/05/85	APCO/Hazen's APCO	RF83-137
07/05/85	LARCO/Brownfield Oil Co.	RF112-163
07/05/85	LARCO/Arrow Gas Service	RF112-164
07/01/85	Nielsen/Kratke Oil Compsny	RF141-9

[FR Doc. 85-18697 Filed 8-6-85; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Proposed Allocations for the 3.125 Percent (50 MW) of Transfer Capability on the California-Oregon Transmission Project Among Non-Federal Public Entities

AGENCY: Department of Energy, Western Area Power Administration, Sacramento Area Office.

ACTION: Announcement of Final Applicant Eligibility Criteria and Final Terms and Conditions that will apply to the entities receiving an allocation. Announcement of proposed allocations for the 3.125 percent (50 MW) of transfer capability on the California-Oregon Transmission Project among non-Federal public entities.

SUMMARY: On June 3, 1985, the proposed Applicant Eligibility Criteria, Terms and Conditions, and procedures governing the allocation of the 3.125 percent of transfer capability were announced (50 FR 23356). The June 3 **Federal Register** also was an announcement of a call for applications for allotments from the 3.125 percent of transfer capability. A public comment forum on these subjects was held on June 18 and written comments were due by July 3. Applications for an allocation were also due by July 3.

Based upon the comments received, the Western Area Power Administration (Western), has revised certain of the Terms and Conditions. The Applicant Eligibility Criteria have not been revised. In Term and Condition 2, the word "lay-off" (by an allottee of its transfer capability) is changed to "assign." Term and Condition 3, which proposed a 3-month deadline for each allottee to enter into applicable agreement(s), is being amended to allow an extension of the deadline, at the sole discretion of Western, for so long as conditions beyond the control of the allottee prevent the allottee from entering into applicable agreements. Term and Condition 4, which addresses revocation of an allocation in the event that an allottee does not meet Term and Condition 3, is being amendment to provide for reallocation of such returned allocation to the remaining allottees on a pro rata basis. Term and Condition 5, which addresses reversion of an allocation to the Project Participants, is amendment to conform with the revised Term and Condition 4.

DATES: The following schedule shall apply to the remainder of the process.

Public Comment Forum on Proposed Allocations, 5321 Date Avenue, Sacramento, CA, August 21, 1985, 10 a.m., Holiday Inn-Holidome.

Written comments due no later than 4:30 p.m. in the Area Manager's Office. Due 30 days after the announcement of the Proposed Allocations.

Announcement of Final Allocations. On or about September 30, 1985.

ADDRESS: For further information contact: Mr. David G. Coleman, Area Manager, Sacramento Area Office, Western Area Power Administration, U.S. Department of Energy, 1825 Bell Street, Sacramento, California 95825, telephone (916) 978-4421.

Final criteria/terms and conditions: The following define the Applicant Eligibility Criteria and the Terms and Conditions applicable to allocations of the 3.125 percent of the transfer capability of the California-Oregon Transmission Project (Project). Western reserves the right to promulgate further criteria and terms and conditions as necessary to interpret or implement any criterion or term and condition set forth below.

I. *Final Applicant Eligibility Criteria:* Western will allocate the 3.125 percent of transfer capability in accordance with the following criteria:

1. The applicant must be a non-Federal public entity and must qualify under reclamation law (particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) as a preference entity.

2. The applicant must not be a Participant, signatory, or represented by the Participants in the Memorandum of Understanding (MOU).

3. The applicant must have filed a Statement of Interest pursuant to the **Federal Register** notice of August 6, 1984, and submitted written and/or oral comments pursuant to the **Federal Register** notice of January 3, 1985.

4. Applicants must, be the inservice date of the Project, be either (a) an irrigation or water district or a group of such districts with pumping load for agricultural, municipal, or industrial purposes; or (b) a utility which owns and operates its electric system.

5. Preference will be given to applicants in the marketing area of the Sacramento Area Office of the Western Area Power Administration.

6. Entities similarly organized (e.g., irrigation and water districts) may form a Joint Powers Agency or similar organization (referred herein as a JPA) which will collectively represent its members in all matters necessary to obtain power service. The JPA must be authorized to enter into all participation and other agreements related to the Project.

a. The JPA must be formally organized and viable within 3 months after the final allocations.

b. Western will accept applications from JPAs or proposed JPAs. Each member of the JPA or proposed JPA must meet all of the applicant eligibility criteria.

c. An allocation will be made to the JPA, not to the individual members.

d. Membership in the JPA shall be available on fair and reasonable conditions to any entity which meets all of the applicant eligibility criteria and is organized similarly to the members of the JPA.

II. *Final Terms and Conditions:* The following terms and conditions shall apply to the entity receiving an allocation.

1. Allocations of transfer capability will be made in increments of no less than 0.0625 percent, or one (1) MW.

2. Allottees may use the transfer capability to serve their own loads (or their member loads) but not the loads of other entities, provided that, the allottee may assign its project transfer capability as may be provided in the participation agreement(s) for the project, so long as the allottee retains net economic benefits proportionally equivalent to its allocation.

3. Within 3 months after the final allocations, each allottee must have entered into the applicable agreement(s), paid all upfront costs, and conclusively demonstrated its willingness and ability to pay its share of the construction costs and annual expenses of the Project, unless otherwise agreed between the successful allottee(s) and the Participant(s). The 3-month deadline may be extended for so long as conditions beyond the control of the allottee prevent the allottee from

entering into the applicable agreements. The decision to grant any extension shall be at the sole discretion of Western, but no extension shall extend beyond the date the Participants decide whether or not to construct the Project.

4. In the event that the allottee does not meet Term and Condition Number 3 above, its allocation will be revoked and placed in the allocation pool to be made available for reallocation on a pro rata basis to the remaining allottees. If none of the remaining allottees subscribe to a remaining percentage, then Term and Condition 5 applies.

5. In the event that all of the 3.125 percent of transfer capability is not allocated or reallocated, such portion shall revert to the Project Participants, except Western, on a pro rata basis.

Section-by-Section Analysis: The rationale for the additional language to Terms and Conditions 2, 3, 4, and 5 is given below. Except for the additional language, no changes or significant deletions were made to the proposed Applicant Eligibility Criteria or to the proposed Terms and Conditions. Thus, the rationale presented in the June 3, 1985 **Federal Register** (50 FR 23357), is adopted by reference. Additionally, Western bases the rationale for its Terms and Conditions on its responses to comments which are found below in this **Federal Register.**

Terms and Conditions

2. In response to comments, the word "lay-off" has been changed to "assign" for reasons of clarity and technical accuracy.

3. In response to comments, Western has provided an extension of the 3-month deadline for the new allottees to execute the applicable agreements when conditions prevent an allottee from entering into the applicable agreements. Western believes that the provision for an extension is reasonable so long as the Project is not delayed. In this regard, the extension will be granted only for so long as such conditions exist, and will not extend beyond the date the Participants decide whether or not to construct the Project. Western is retaining the sole discretion to grant an extension along with the conditions for such an extension because, as the agency administering these procedures, Western is familiar with the facts surrounding the application of each allottee.

4. Several comments recommended that any unsubscribed allocation as a result of an allottee's failure to comply with the 3-month deadline of Term and Condition 3 should be distributed among the other allottees. Western agrees, and since proposed allocations have been made to all eligible allottees, a pro rata distribution is equitable. The 3-month deadline to execute the applicable agreements as provided in Term and Condition 3 would again apply.

5. This Term and Condition was amended to conform with the revised Term and Condition 4.

Proposed allocations: The following proposed allocations are precentages of total transfer capability of the Project. The megawatt values are stated for reference only and are based on an estimated transfer capability of 1,600 MW. The basis for selection and the determination of the amount of an allocation is presented in the next section.

Entity	Proposed allocation (percent/MW)
1. Southern San Joaquin Valley Power Authority	2.0625/33
2. Trinity County PUD	.3125/ 5
3. Shasta Dam Area PUD	.4375/ 7
4. San Juan Suburban WD	.0625/ 1
5. El Dorado Hills Community Services District	.1875/ 3
6. Carmichael WD	.0625/ 1
	3.125 /50

Each of the allottees comply with Applicant Eligibility Criteria 1 through 5. Criteria 6, regarding JPA formation and authorized powers, is met by the Southern San Joaquin Valley Power Authority.

Based upon the applications received, Western has applied the criteria and exercised its judgment in making the proposed allocations. Western requests comments on these proposed allocations in accordance with the schedule set forth in this notice.

Rejected applicants: The following six applicants were not selected.

1. The County of Trinity was not selected because it does not meet Criterion 4. The county is not an irrigation or water district, or a utility which owns and operates its electric system.

2. Cawelo Water District filed both as a member of the Southern San Joaquin Valley Power Authority and individually. Western made an allocation to the Power Authority and believes the Authority can best represent its members by pooling their administrative and financial resources. For this reason, an allocation to Cawelo as an individual applicant was not made.

3. Kern County Water Agency, Princeton-Cordora-Glenn Irrigation District, and the Port of Oakland were not selected because they failed to file statements of interest/comments pursuant to the August 1984 and January 1985 **Federal Register** notices as required by Criterion 3.

4. The application by the Ramona Municipal Water District was rejected because it was not submitted within the 30-day filing period.

Responses to comments: All of the comments submitted regarding the Proposed Applicant Eligibility Criteria and Proposed Terms and Conditions were carefully considered, along with Title III of the Energy and Water Development Appropriation Act for Fiscal Year 1985 (Pub. L. 98-360), the legislative history of Pub. L. 98-360, particularly the Conference Report (Report 98-866, 98th Congress, 2nd Session), the Memorandum of Understanding (MOU) dated December 19, 1984, for the financing, construction and operation of a new alternating current 500-kV transmission line from the Pacific Northwest to California (California-Oregon Transmission Project or COTP), the Memorandum of Decision (MOD) of the Secretary of Energy dated February 7, 1985, and the letter dated May 4, 1985, signed by Eric J. Fygi, Acting General Counsel for the Department of Energy (Fygi letter) which clarifies certain issues raised by some of the original participants in response to the MOD. Following are the major comments raised and the responses thereto:

1. *Comment:* Public utility districts that provide electrical service to the citizens of the State of California should be given preferential treatment in the allocation. Another commenter recommended a priority to applicants serving residential customers.

Response: These recommendations would adversely impact irrigation and water districts and unduly favor public utility districts. As the Conference Report on Pub. L. 98-360 directs the Secretary to enter into negotiations with both publicly owned utilities and irrigation districts (and others), we believe that Congress did not intend such preferential treatment for public utility districts. It is apparent that Congress intended for irrigation districts, which consume large amounts of energy, to share in the benefits of the Project.

2. *Comment:* The requirement in Term and Condition 3 that an allotee must "have conclusively demonstrated its willingness and ability to pay its share of the construction costs and annual expenses of the Project . . ." is ambiguous because there are no guidelines provided as to how the determination is made.

Response: We believe that the criterion is clear. The demonstration of

willingness and ability to pay its made by: (a) Entering into the applicable contracts; (b) reimbursing the existing Participants for the portion of costs incurred previously which would have been borne by the new allottee had it participated from the outset (these costs are relatively small as only some preconstruction costs have been incurred); and (c) being ready, willing, and able to enter into participation and other agreements, as appropriate, and pay for an appropriate share of the construction and annual expenses.

3. *Comment.* Object to Applicant Eligibility Criterion 3, which requires a response to have been made to two **Federal Register** notices, as being arbitrary and unreasonable and not in the public interest.

Response: Pub. L. 98–360 granted the Secretary of Energy the authority and discretion to participate in the development of the COTP and directed the Secretary to negotiate with various types of parties, including irrigation districts. Pursuant to this authority, on August 6, 1984, Western published a request for statements of interest in the Project. Western received responses from 65 entities (including a number of irrigation districts, water districts, water agencies, and public utility districts) totaling over 6,000 MW of requested transfer capability, an amount far beyond the potential physical capability of the Project. Later, when the original Participants had negotiated the MOU, the Secretary announced the MOU and the proposed plan to develop the intertie. Taking into account the comments received from entities desiring to participate in the Project, but which were not then parties to the MOU, the Secretary modified the plan to allow for the participation by certain additional entities. As an exercise of discretion in establishing criteria for the allocation of transfer capability, the Secretary's modification recognized only those entities which had filed a statement of interest and had responded to the development of the plan. It was anticipated, and occurred in fact, that such eligible applicants would request much more transfer capability than was available. Applicant Eligibility Criterion 3 carries out the policy of the Secretary as stated in the MOD and the Fygi letter.

The commenter also proposed alternatives to avoid the application of this criterion. Those alternatives are rejected as not being consistent with the Secretary's decision and the criterion. The alternatives would allow or require an allocation to an entity which did not meet Criterion 3 in the event an eligible applicant did not subscribe its allocation or an eligible applicant proposed to lay-off or assign its allocation, or the capacity of the Project was upgraded.

4. *Comment:* Objects to the geographic preference to applicants in the marketing area of the Sacramento Area Office of Western as improper and unlawful, and states that Western has no authority to impose this criterion. Other commenters supported the geographic preference.

Response: Since Western did not receive any timely applications from allottees outside of the marketing area of the Sacramento Area Office, the issue of whether this criterion is improper is moot. However, since Western is nonetheless retaining the criterion as part of the final criteria, we believe it is appropriate to address the issue of Western's legal authority to impose a geographic preference. Western's authority to allocate the transfer capability is found in the reclamation laws, particularly section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c), the Department of Energy Organization Act, 42 U.S.C. 7101 et seq., and Pub. L. 98–360. At least two cases have held that power marketing agencies have the discretion to impose geographic preference when making allocations. Those cases are: Arizona Power Authority v. Morton, 549 F.2d 1231 (9th Cir.), *cert. den.* 434 U.S. 835 (1977), and Greenwood Utility Commission v. Hodel, ——— F.2d ——— (11 Cir. July 9, 1985). Western clearly has the authority and discretion to impose a geographic preference.

5. *Comment:* Objects to the condition in Term and Condition 2 that the allottee retains net economic benefits proportionally equvalent to its allocation in any lay-off of the allottee's transfer capability.

Response: The commenter stated that: "The concept of 'net economic benefits' is derived from the Department of Energy's May 4, 1985 clarifying letter (Fygi letter), and is intended to avoid mandatory wheeling on the part of the original Participants, particularly to end users. The concept, therefore, has no place in the lay-off situation."

We disagree. As stated in the Fygi letter, the Secretary's primary intent in making the 3.125 percent of the Project transfer capability available to certain eligible allottees was to ensure that any such entities receive net economic benefits for their participation. This applies in all events, but particularly if that allottee chooses to lay-off (i.e., assign) its participation interest. However, the Secretary did not impose a wheeling requirement upon the original Participants. The decision not to impose such a requirement does not obviate the primary intention of the Secretary to ensure that the allottee retain the net economic benefits. For the additional reasons stated in the **Federal Register** notice of June 3, 1985 (50 FR 23356), Western will retain the condition.

It appeared from the comment that there may have been confusion over Western's use of the term "lay-off." Western has changed to the use of the word "assign" in order to clarify the intent. It is our intent that the net economic benefits principle applies to any whole or partial assignment of interest in the Project by the allottee.

6. *Comment:* There should be finality in any allocation or reallocation process and the prospect of nonfinality is undesirable.

Response: Western agrees. Under the modified criteria, the new allottees have 3 months in which to sign the then applicable agreements, subject only to conditions beyond the control of the allottee. If an allottee fails to sign within that time period, the unsubscribed amounts will be offered pro rata to the remaining allottees until it is all subscribed. If any portion remains unsubscribed, Term and Condition 5 will apply. Thus, this process will be final 3 months after the final allocation, subject only to an extension due to conditions beyond the control of the allottee or possibly additional time due to a reallocation. The applicable Project agreements will apply to the new allottees after that time.

7. *Comment:* Recommends a priority to applicants receiving little or no Federal power.

Response: Western is not allocating Federal power, but is allocating an opportunity to participate in a transmission line. This line will utilize certain Western facilities; however, this is a joint participation project of all of the Participants, including Western. After making this allocation, it is the allottees' responsibility to enter into the applicable participation agreements. From that, the applicant may make any arrangements it desires to utilize its participation share. We do not see a significant relationship betweeen the amount of power purchased from Western and the allocation of the transfer capability of this Project. Therefore, we have not adopted this recommendation.

8. *Comment:* Recommends a time extension after the inservice date of the Project for a new utility district to acquire an electric system if evidence shows that the good faith efforts of a new utility district to buy out the

existing system are being unreasonably delayed and thwarted by the existing owner.

Response: This proposal is rejected for two reasons. First, Western believes that since the current projected inservice date of the Project is no sooner than December 1989, and cannot, as a practical matter, occur any sooner, there exists ample time for a new utility to acquire a system. Secondly, any extension of time will impose more uncertainty as to the final designation of allottees, which can be undesirable if the allottee fails to ultimately meet the requirement. Such an occurrence may cause added financial burdens upon the remaining Participants. We would note that notwithstanding the fact that an allottee does not own or operate an electric utility system at the time of the allocation, it must nonetheless meet the requirements of Term and Condition 3.

9. *Comment:* Recommends reallocating any unused portions of transfer capability to the remaining successful applicants.

Response: This recommendation has been adopted, as this was the original intent. Since proposed allocations have been made to all eligible allottees, a pro rata distribution is equitable.

10. *Comment:* Recommends that ownership levels and other rights be specified to the nearest hundredth of a percent.

Response: Western is authorized to allocate 3.125 percent of transfer capability of the Project. Normal rounding would result in Western allocating 0.005 percent more than this. Western believes that after this allocation is made, if additional rounding is desirable, the original Participants and the new allottees may so agree.

11. *Comment:* Objects to the requirements of Proposed Applicant Eligibility Criteria 1 and 4.

Response: No reasons were stated by the commenter for its objection. The commenter, however, did not qualify as an irrigation or water district, or as a utility which owns and operates its electrical system pursuant to the Applicant Eligibility Criterion 4. Further, the commenter's application did not reveal any anticipation of meeting Applicant Eligibility Criterion 4. We would note that the commenter appeared to have met the requirements of Applicant Eligibility Criterion 1.

The purpose of these criteria is to carry out the intent of Congress expressed in Pub. L. 98–360 and its legislative history, and the policies of the Secretary expressed to the MOD and the Fygi letter.

The law contemplated that utilities and irrigation districts were the intended beneficiaries. Such entities are capable of utilizing transmission capacity and are ready, willing, and able to do so because they have the organization, structure, and physical means. Moreover, those entities serve the public interest and have a need which far exceeds the potential capability of the Project.

12. *Comment:* Objects to the Eligibility Criterion 6.d. which provides that membership in a JPA shall be available on a fair and reasonable basis to an entity which meets all of the applicant eligibility criteria and is organized similarly to the members of the JPA.

Response: The purpose of this criterion was to prevent eligible allottees from being unfairly or unreasonably excluded from membership in an eligible JPA. The JPA should, in the first instance, determine the conditions of membership subject, however, to the eligibility criteria. We note that there are only two eligible entities which could request to become a member of the only eligible JPA. Western is proposing to allocate to both entities a separate allocation. Thus, the issue may be nonexistent.

13. *Comment:* The term "net economic benefits proportionately equivalent to its allocation" is vague, should be further clarified, and should be no more restrictive than conditions imposed upon the present MOU participants.

Response: As specified in the Fygi letter, the economic arrangements must be worked out among all the parties. Since the rates of the utility Participants are publicly available, the allottees should be able to gauge objectively the economic benefits from their participation. The fundamental purpose of the Project is the fair and equitable allocation of the economic benefit of access to Northwest power. This economic benefit will vary for each new allottee. In light of the above, Western believes that the term "net economic benefit" is clear as a statement of principle. Western prefers to state the principle, and leave the application of the principle to negotiation between the appropriate parties.

The principle is not directly applicable to other Participants. The principle was designed to protect the new allottees, not to set a limit on the benefits which may result from their participation.

14. *Comment:* Recommends an extension of time beyond the 3 months specified in the Term and Condition 3 if conditions beyond the control of the allottee prevent it from the timely execution of the applicable agreements.

Response: Western has adopted this recommendation. An extension of time is allowed for so long as there are conditions which are beyond the control of the allottee which prevent that allottee from executing the applicable agreements. It should be noted that Western views the applicable agreements as those Project contracts which have been executed by all of the existing Participants as of the date of the final allocation. The fact that a new allottee may not like certain provisions in such contracts does not prevent that allottee from executing them. As to other Project contracts to be executed after the final allocation, the new allottees will negotiate and execute them as appropriate and as determined by consensus among all parties.

15. *Comment:* The term "up-front costs" need to be clarified.

Response: See response to comment 2.

16. *Comment:* Western's **Federal Register** notice may leave the impression that the Participants might be obligated to make transmission service (wheeling) available to the non-Federal public entities being offered an allocation of the Project.

Response: There is no provision of the Applicant Eligibility Criteria or the Terms and Conditions which requires the original Participants to wheel for the new allottees.

17. *Comments:* Recommends favorable considerations be given to applicants with

(a) Highest offers to third party producers;

(b) Inverted block rates with marginal costs for the tail block;

(c) Substantial commitment to conservation and load management programs; including time of use, rates and conservation voltage reduction, Phase II; and

(d) Substantial commitment to preferred alternative technology including wind, solar, and geothermal.

For applicants whose load includes agricultural pumping, full time of use rates should be mandatory and minimum pumping efficiencies of 70 percent should be required of all pumps drawing 80 kw or more. Rates which subsidize wasteful and inefficient end uses should receive negative consideration.

Response: With the exception of listed item (a), Western believes that the programs and mechanisms listed are generally worthwhile and valuable measures. However, Western believes that these conditions should not be placed on the allocation of transfer capability. Western does require an active commitment to conservation and

renewable energy programs as a condition of Federal firm power sales, but not for the use of transmission facilities.

Regarding item (a), Western does not understand why preference should be given to applicants with the highest offers to third party producers. We do not see this as a conservation measure nor one promoting the economic use of resources. Additionally, most or all of the applicants do not purchase power in a market situation, and thus do not make offers. They would not make offers until they could utilize an allocation of transfer capability which, as a practical matter, will not occur until the Project is in commercial operation.

Regarding the imposition of certain rates and pump efficiencies, we believe that this allocation is not a proper mechanism (nor one intended by Congress) as a means to impose such requirements. As stated above, other and more appropriate mechanisms and forums are available. Lastly, the imposition of time-of-use rates is normally done by the electric supplier, not by the entity with the pumping load.

18. *Comment:* Negative consideration should be assessed for resource plans which include hydroelectric development (other than retrofit) or combustion turbines. Shasta Dam Area Public Utility District should receive special consideration for its decision to forego hydroelectric development on virgin streams. Hydroelectric proposals by the following entities should be disqualifying: Sacramento Municipal Utility District, city of Santa Clara, city of Redding, Modesto Irrigation District, Turlock Irrigation District, and the city of Rohnert Park.

Response: Western did not adopt these recommendations. The entities listed which were recommended to be disqualified were not eligible because they did not meet all of the eligibility criteria nor did they file an application. No special consideration was given to Shasta Dam Area Public Utility District. Further, as stated in the response to comment 17 above, other and more appropriate forums and methods exist to evaluate the need for and impacts of potential hydroelectric development.

The commenter which suggested the recommendations in this comment and the comment addressed above is rightfully concerned about the impacts of the Project. We would note that there is an ongoing substantial public process which will Lead to the completion of an Environmental Imapct Statement pursuant to the National Environmental Policy Act (NEPA) and an Environmental Impact Report pursuant to the California Environmental Quality Act (CEQA). Western, as lead agency under NEPA, and the Transmission Agency of Northern California, as the lead agency under CEQA, are involved in the public process and in the preparation of those documents and must consider the findings of that process prior to proceeding with the Project.

Availability of information: All brochures, studies, comments, letters, memorandums, and other documents made or kept by Western for the development of these rules will be available for inspection and copying at the Sacramento Area Office, Western Area Power Administration, 1825 Bell Street, Sacramento, California 95825, (916) 978-4421.

Issued at Washington, DC, on July 30, 1985.

Ronald K. Greenhalgh,

Assistant Administrator for Washington Liaison.

[FR Doc. 85-18742 Filed 8-6-85; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-412; FRL-2878-6]

Certain Companies; Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and feed additive petitions relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF-412) and the petition number, attention Product Manager (PM) named in each petition, at the following address:

Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to:

Information Services Section (TS-757C), Environmental Protection Agency, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be dislosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (TS-767C), Attn: (Product Manager (PM) named in each petition), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

In person: Contact the PM named in each petition at the following office location/telephone number:

Product manager	Office location/ telephone No.	Address
PM-12, Jay Ellenberger.	Rm. 202, CM # 2 (703-557-2386).	EPA, 1921 Jefferson Davis Hwy, Arlington, VA 22202
PM-17, Timothy A. Gardner.	Rm. 207, CM # 2 (703-557-2690).	Do.
PM-25, Robert Taylor.	Rm. 245, CM # 2 (703-557-1600).	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP) and feed additive petitions (FAP) relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

I. Initial Filings

1. *FAP 5H5466.* Union Carbide Agricultural Products Co., Inc., P.O. Box 12014, Research Triangle Park, NC 27709. Proposes amending 21 CFR Part 561 by establishing a regulation permitting residues of the insecticide carbaryl (1-naphthyl *N*-methylcarbamate) in or on the commodity pineapple bran at 20.0 parts per million (ppm). PM-12

2. *PP 5F3234.* BASF Wyandotte Corp., P.O. Box 181, 100 Cherry Hill Road, Parsippany, NJ 07054. Proposes amending 40 CFR 180.412 by establishing tolerances for the combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexene-1-one and its metabolites containing the 2-cyclohexene-1-one moiety (calculated as the herbicide) in or on the commodities peanuts at 25.0 ppm; peanut, hulls at 5.0 ppm; and

sunflower seeds at 7.0 ppm. The proposed analytical method for determining residues is gas chromatography using sulfur-specific flame photometric detection. (PM–25)

3. *FAP 5H5464.* BASF Wyandotte Corp. Proposes amending 21 CFR Part 561 by establishing a regulation permitting residues of the above pesticide (I.2) in or on the commodities peanut soapstock at 75.0 ppm and sunflower meal at 20.0 ppm. (PM–25)

II. Amended Petition

PP 4F3011. FMC Corp., 2000 Market St., Philadelphia, PA 19103. EPA issued a notice, published in the *Federal Register* of February 8, 1984 (49 FR 4840), which announced that FMC Corp. had submitted PP 4F3011 to the Agency proposing to amend 40 CFR Part 180 by establishing tolerances for residues of the insecticide cypermethrin [(±)-alpha-cyano-(3-phenoxyphenyl)methyl(±) *cis,trans*-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopranecarboxylate and its metabolites, dichlorovinyl acid (DCVA) and *m*-phenoxybenzoic acid (MPBA) in or on the commodity cabbage at 1.5 ppm.

FMC Corp. has amended the petition by increasing the tolerance from 1.5 ppm. to 2.0 ppm. The proposed analytical method for determining residues is gas chromatography. (PM–17)

Authority: 21 U.S.C. 346a and 348.

Dated: July 30, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85–18731 Filed 8–6–85; 8:45 am]

BILLING CODE 6560–50–M

[PP 5G3167/T494; FRL–2878–3]

Ethephon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the plant growth regulator ethephon in or on the raw agriculture commodity popcorn. This temporary tolerance was requested by Union Carbide Agricultural Products Co.

DATE: This temporary tolerance expires May 23, 1986.

FOR FURTHER INFORMATION CONTACT: By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 245, CM # 2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–1800).

SUPPLEMENTARY INFORMATION: Union Carbide Agricultural Products Co., P.O. Box 12014, Research Triangle Park, NC 27709, has requested in pesticide petition PP 5G3167 the establishment of a temporary tolerance for residues of the plant growth regulator ethephon (2-chloroethyl) phosphonic acid in or on the raw agricultural commodity popcorn at 0.1 part per million (ppm).

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 264–EUP–72 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be use must not exceed the quantity authorized by the experimental use permit.

2. Union Carbide must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires May 23, 1986. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: July 30, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85–18734 Filed 8–6–85; 8:45 am]

BILLING CODE 6560–50–M

[OPP–50639; FRL–2878–4]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail, the product manager cited in each experimental use permit at the address below: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTAL INFORMATION: EPA has issued the following experimental use permits:

275–EUP–44. Issuance. Abbott Laboratories, 14th and Sheridan Road, North Chicago, IL 60064. This experimental use permit allows the use of 12.54 pounds of the plant growth regulator gibberellic acid and 6-benzyladenine on seed for spinach to obtain uniform bolting and increased seed production. A total of 100 acres are involved; the program is authorized only in the State of Washington. The experimental use permit is effective from April 29, 1985 to September 30, 1985. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

7969–EUP–19. Extension. BASF Wyandotte Corporation, 100 Cherry Hill Road, Parsippany, NJ 07054. This experimental use permit allows the use

of 196 pounds of the herbicide sethoxydim on field corn to evaluate the control of various weeds. A total of 980 acres are involved; the program is authorized only in the States of Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, South Carolina, Texas, and Wisconsin. The experimental use permit is effective from May 8, 1985 to May 8, 1986. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

7969–EUP–21. Extension. BASF Wyandotte Corporation, 100 Cherry Hill Road, Parsippany, NJ 07054. This experimental use permit allows the use of 820 pounds of the herbicide sethoxydim on alfalfa to evaluate the control of various weeds. A total of 820 acres are involved; the program is authorized only in the States of Arizona, California, Idaho, Illinois, Indiana, Kentucky, Michigan, Minnesota, Nebraska, Ohio, Oregon, Texas, Washington, and Wisconsin. The experimental use permit is effective from April 30, 1985 to April 30, 1986. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

239–EUP–102. Extension. Chevron Chemical Company, 940 Hensley St., Richmond, CA 94804. This experimental use permit allows the use of 75 pounds of the insecticide acephate on rice to evaluate the control of armyworms, grasshoppers, and stinkbugs. A total of 75 acres are involved; the program is authorized only in the States of Arkansas, Mississippi, and Texas. The experimental use permit is effective from May 17, 1985 to May 17, 1986. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only. (William Miller, PM 16, Rm. 211, CM#2, (703–557–2600))

352–EUP–116. Extension. E.I. duPont de Nemours and Company, Wilmington, DE 19898. This experimental use permit allows the use of 238 pounds of the herbicide methyl 2-[[[[[4-methoxy-6-methyl-1,3,5-triazin-2-yl]amino]carbonyl]amino]-sulfonyl]benzoate on non-cropland to evaluate the control of various weeds. A total of 3,910 acres are involved; the program is authorized in all 50 States except Alaska, Hawaii, Massachusetts, Nevada, New Mexico, Rhode Island, and Utah. The experimental use permit is effective from May 1, 1985 to May 1, 1986. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

352–EUP–117. Extension. E.I. duPont de Nemours and Company, Wilmington, DE 19898. This experimental use permit allows the use of 199.5 pounds of the herbicide methyl 2-[[[[[4-methoxy-6-methyl-1,3,5-triazin-2-yl]amino]carbonyl]amino]-sulfonyl]benzoate on non-cropland to evaluate the control of various weeds. A total of 6,352 acres are involved; the program is authorized in all 50 States except Alaska, Hawaii, Nevada, Oregon, Pennsylvania, Rhode Island, Utah, and Vermont. The experimental use permit is effective from May 1, 1985 to May 1, 1986. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

352–EUP–122. Issuance. E.I. duPont de Nemours and Company, Wilmington, DE 19898. This experimental use permit allows the use of 66 pounds of the acaricide trans-5-(4-chlorophenyl)-*N*-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide on fresh market apples to evaluate the control of various species of mites. A total of 264 acres (132 acres each season) are involved; the program is authorized only in the States of Colorado, Georgia, Illinois, Michigan, Minnesota, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Virginia, Washington, West Virginia, and Wisconsin. The experimental use permit is effective from April 10, 1985 to May 31, 1986. A temporary tolerance for residues of the active ingredient in or on apples has been established. (George LaRocca, PM 15, Rm. 204, CM#2, (703–557–2400))

10182–EUP–36. Issuance. ICI Americas, Inc., Wilmington, DE 19897. This experimental use permit allows the use of 10 pounds of the plant growth regulator (2*RS*,3*RS*)-1-(4-chlorophenyl)-4,4-dimethyl-2-(1*H*1,2,4-triazol-1-yl)pentan-3-ol on greenhouse ornamental to evaluate its effectiveness of plant height control. A total of 1,500,000 square feet are involved; the program is authorized only in the States of California, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, North Carolina, New Jersey, New York, Ohio, Oregon, Pennsylvania, Texas, Virginia, and Washington. The experimental use permit is effective from April 26, 1985 to April 26, 1987. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

524–EUP–64. Issuance. Monsanto Company, 1101 17th St., NW., Washington, D.C. 20036. This experimental use permit alows the use of 500 pounds of the herbicide alachlor on soybeans to evaluate the control of various weeds. A total of 500 acres are involved; the program is authorized only in the States of Alabama, Arizona, Delaware, Florida, Georgia, Iowa, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from April 22, 1985 to April 22, 1987. A permanent tolerance for residues of the active ingredient in or on soybeans has been established (40 CFR 180.249). (Robert Taylor, PM 25, RM. 245, CM#2, (703–557–1800))

876–EUP–44. Issuance. Velsicol Chemical Corporation, 341 East Ohio St., Chicago, IL 60611. This experimental use permit allows the use of 2,831 pounds of the herbicide prodiamine on non-bearing orchards of fruits, nuts, and grapes; woody ornamental nursery crops; turf; and non-cropland to evaluate the control of various weeds. A total of 1,936 acres are involved; the program is authorized only in the States of Alabama, Arkansas, California, Florida, Georgia, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Virginia, Washigton, and West Virginia. The experimental use permit is effective from September 1, 1985 to September 1, 1986. (Richard Mountfort, Pm 23, Rm. 253, CM#2, (703–557–1830))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136c.

Dated: July 30, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85–18733 Filed 8–6–85; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–44012; FRL–2878–7]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the data submissions received by EPA during the second quarter of 1985 from negotiated testing programs accepted by EPA in lieu of requiring testing under section 4 of the Toxic Substances Control Act (TSCA). These submissions include results of certain studies and tests on six chemical substances or groups of chemicals.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, Toll Free: (800-424-9065), In Washington, D.C.: (544-1404), Outside the USA: (Operator-800-554-1404).

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires the EPA to issue a notice in the **Federal Register** reporting on any test data received pursuant to test rules promulgated under section 4(a). Although not required by section 4(d), EPA also periodically publishes notices of receipt of data from negotiated testing programs and other industry programs, which might otherwise have been required through test rules. This notice announces test data submissions received during the second quarter of 1985 from such industry testing programs under TSCA.

I. 2-Chlorotoluene

Occidental Chemical Corporation is conducting a negotiated testing program on 2-chlorotoluene (CAS No. 95-49-8), a solvent for agricultural pesticides and a general solvent replacement for 1,2-dichlorobenzene. EPA's decision to adopt this negotiated testing program, which describes this testing, was published in the **Federal Register** of April 28, 1982 (47 FR 18172).

On April 19, 1985, the Agency received two studies on diuretic activity of o-chlorotoluene after repeated oral administration in the rat.

II. 1,3-Dioxolane

Ferro Corporation and PPG Industries are conducting a negotiated testing program on 1,3-dioxolane (CAS No. 646-06-0) a stabilizer in production and distribution of 1,1,1-trichloroethane. EPA's decision to adopt this negotiated testing program, which describes this testing program, was published in the **Federal Register** of August 10, 1984 (49 FR 32113).

On May 8, 1985, EPA received the results of a chromosomal aberration assay in Chinese hamster ovary cells, an *in vitro* cell transformation assay on Balb/C-3T3 cells, and a mouse lymphoma forward mutagenicity assay.

III. Oleylamine

The Chemical Manufacturer's Association as voluntarily submitted test data on oleylamine (9-octadecenylamine, CAS No. 112-90-3), an additive to petroleum lubricants or an intermediate in the manufacture of such additives. The tests for which data were received were included in the proposed testing requirements published in the **Federal Register** of November 19, 1984 (49 FR 45610).

On April 15, 1985, the Agency received the results of a 14-day dermal toxicity range-finding study. On April 24, 1985, the Agency received the results of a *Salmonella* mutagenicity assay (Ames test) and a chromosomal aberration assay in Chinese hamster ovary cells.

IV. Formamide

BASF Wyandotte Corp. has conducted a negotiated testing program on formamide (CAS No. 75-12-7), an ink solvent. This program was accepted by the Agency in lieu of a test rule under section 4 of TSCA; details of the program are published in the **Federal Register** of December 29, 1983 (48 FR 57365).

On June 19, 1985, EPA received the results of a 90-day dermal subchronic study in rats.

V. 2-phenoxyethanol

An ad hoc group of the domestic producers of 2-phenoxyethanol (2-PE, CAS No. 122-99-6) is conducting a testing program on this substance which is primarily used as a coalescing agent in latex paints and also as a solvent, chemical intermediate, and cosmetic preservative or fragrance. EPA's decision on 2-PE was published in the **Federal Register** of May 21, 1984 (49 FR 21407).

On May 28, 1985, EPA received the results of a dermal teratology study in rabbits.

VI. Tris(2-Ethylhexyl) Trimellitate

Eastman Kodak Company is conducting a testing program on tris(2-ethylhexyl) trimellitate (TOTM, CAS No. 3319-31-1) a substance used as a speciality plasticizer in electronics insulation.

This program was accepted by the Agency in lieu of a test rule under section 4 of TSCA; details of the program are published in the **Federal Register** of June 4, 1984 (49 FR 23116).

On May 23, 1985, the Agency received the results of a study of the unscheduled DNA synthesis in primary rat hepatocytes.

VII. Public Record

EPA has established a public record for this quarterly receipt of data notice (docket number OPTS-44012). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the OPTS reading room, E-107, 401 M St., SW., Washington, DC 20460.

Dated: July 31, 1985.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 85-18730 Filed 8-6-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-42059A; FRL-2875-9]

Final Approval of Colorado Plan for Certification of Pesticide Applicators of Restricted Use Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final Approval of State Plan.

SUMMARY: The Governor of Colorado has submitted to EPA for approval a plan for the certification of commercial applicators of restricted use pesticides. Notice is hereby given of the final approval to this plan by the Regional Administrator, EPA, Region VIII.

FOR FURTHER INFORMATION CONTACT: David Combs, Air and Toxics Division (8AT-TS), Region VIII, Environmental Protection Agency, 999 18th Street, Suite 1300, Denver, CO 80202-2413, (303-293-1730).

SUPPLEMENTARY INFORMATION: In accordance with the provisions of section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136b) and 40 CFR Part 171, the Governor of Colorado has submitted a State plan for the certification of commercial applicators of restricted use pesticides to EPA for approval.

EPA, Region VIII, issued a notice announcing the Agency's intent to approve the Colorado plan on a contingency basis, as published in the **Federal Register** of March 14, 1984 (49 FR 9608). Public comments were invited. EPA, Region VIII, received only one minor comment. Contingency approval was requested pending development and implementation of the administrative procedures necessary for: (a) the State to receive transfer of the program from EPA, Region VIII, and (b)

conducting the program. The State has developed the necessary procedures for conducting the program and EPA, Region VIII, has transferred the necessary records to the Colorado Department of Agriculture.

It has been determined that the Colorado State Plan satisfies the requirements of section 4(a)(2) of the amended FIFRA and of 40 CFR Part 171. Accordingly, the Colorado State Plan is approved. Approval of this Plan is only for the commercial pesticide applicator portion of the certification and enforcement program. EPA, Region VIII, will continue to have the responsibility for conducting the private applicator certification and enforcement program, pesticide-producer establishment inspections, and restricted use pesticide dealers' registration and enforcement. The State's and EPA, Region VIII's responsibilities and legal authorities are found in the State/EPA Agreement (SEA) and the Colorado/EPA Cooperative Enforcement Agreement.

Under section 4(d) of the Administrative Procedures Act, 5 U.S.C. 553(d), the Agency finds that there is good cause for providing that the approval granted herein to the Colorado State Plan be effective upon signature of this notice. Neither the Colorado State Plan itself nor this Agency's approval of the Plan creates any direct or immediate obligation on pesticide applicators or other persons in the State of Colorado. Delays in starting the work necessary to implement the Colorado program, such as may be occasioned by providing some later effective date for this approval, are inconsistent with the public interest. Accordingly, this approval shall become effective immediately.

Dated: July 25, 1985.

John G. Welles,

Regional Administrator, Region VIII.

[FR Doc. 85-18618 Filed 8-6-85; 8:45 am]

BILLING CODE 6560-50-M

[PP 5G3240/T495; FRL-2875-8]

Oxyfluorfen; Establishment of Temporary Tolerances; Rohm and Haas Co.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for the combined residues of the herbicide oxyfluorfen and its metabolites containing the diphenyl ether linkage in or on certain raw agricultural commodities. These temporary tolerances were requested by Rohm and Haas Co.

DATE: These temporary tolerances expire July 9, 1986.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

Office location and telephone number: Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1830)

SUPPLEMENTARY INFORMATION: Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105, has requested in pesticide petition PP 5G3240 the establishment of temporary tolerances for the combined residues of the herbicide oxyfluorfen, 2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl) benzene, and its metabolites containing the diphenyl ether linkage in or on the raw agricultural commodities broccoli, cabbage and cauliflower at 0.05 part per million (ppm).

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 707-EUP-108, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Rohm and Haas Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire July 9, 1986. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981, 46 FR 24950.

Authority: (21 U.S.C. 346a(j)).

Dated: July 29, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-18619 Filed 8-6-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act, 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573.

A.F. Burstrom & Son, Inc., Suite D, 1250 Rankin Road, Troy, MI 48084. Officer: Chester T. Pryzgoda, Jr., Sole Officer

A&B Transportation Services, Inc., dba Gateways International, 80 Yesler Way, Seattle, WA 98104. Officers: Douglas B. Barnes, President/Director; Candace B. King, Vice President/Director; Dorothy Herbert, Vice President/Director; Candee L. McColley, Secretary

Volga Forwarders Service, Inc., 3316 N.W. 36th Street, Miami, FL 33142. Officer: Aisa N. O'Halloran, President

Dated: August 2, 1985.

By the Federal Maritime Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-18708 Filed 8-6-85; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License Number: 2582
Name: Agencia Maritima International, Inc.
Address: 2070 Tallyrand Avenue, Jacksonville, FL 32707
Date Revoked: July 20, 1985.
Reason: Failed to maintain a valid surety bond

License Number: 2108-R
Name: Mateus Shipping Corp.
Address: 61 Hilton Avenue, Garden City, NY 11530
Date Revoked: July 25, 1985
Reason: Failed to maintain a valid surety bond

License Number: 1858
Name: J. Elizabeth Conner dba J. E. Conner Freight Forwarder
Address: 706 S. Hill St., #320, Los Angeles, CA 90014
Date Revoked: July 28, 1985
Reason: Voluntarily requested revocation

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 18707 Filed 8-6-85; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Application for Certificate [Performance]

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Pan Ocean Navigation, Inc. and Venus Cruise Line, Inc. c/o Venus Cruise Line, Inc. 99 George King Boulevard, Cape Canaveral, Florida 32920.

Dated: August 1, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-18706 Filed 8-6-85; 8:45 am]

BILLING CODE 6730-01-M

Indemnification of Passengers for Nonperformance of Transportation; Application for Certificate [Performance]

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Pub. Law. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Great Pacific Cruise Lines, Inc., 3600—15th Avenue West, Seattle, Washington 98119.

Dated: August 1, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-18705 Filed 8-6-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Proposed Bank Holding Company Reporting Requirements

[Docket No. R-0548]

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Extension of comment period.

SUMMARY: The Board of Governors of the Federal Reserve System has extended the period for receipt of public comment until September 30, 1985, on the proposed revision of its bank holding company reporting requirements (Docket No. R-0548) (50 FR 28026), July 9, 1985. The existing requirements are contained in the Annual Report of Bank Holding Companies, FR Y-6, OMB No. 7100-0124), the Bank Holding Company Financial Supplement, FR Y-9 (OMB No. 7100-0128), and the Bank Holding Company Finanical Statements, FR 2352 (OMB No. 7100-0210). The comment period is being extended due to requests for additional time to assess the proposed changes in the reporting requirements and to provide the Board with useful comments on the proposal. By extending the comment period, the amount of time available to bank holding companies between the issuance of the final reporting requirements and the year-end 1985 implementation date of some of the reports will be shortened. The early submission of comments will assist the Board in the expeditious issuance of final reporting requirements after the close of the comment period.

DATE: Comments must be received by September 30, 1985.

ADDRESS: Comments should be sent to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551, or delivered to Room B-2223 between 8:45 a.m. and 5:15 p.m. Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. Comments should reference both the Docket No. R-0548 and the OMB number of the information collection. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB Desk Officer for the Board: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Stephen Lovette, Supervisory Financial Analyst, Division of Banking Supervision and Regulation (202/452-3622) or Arleen Lustig, Senior Financial Analyst, Division of Banking Supervision and Regulation (202/452-2987).

SUPPLEMENTAL INFORMATION: The Board of Governors of the Federal Reserve System has submitted for public comment a proposed revision of the reporting requirements for bank holding companies. The reports are authorized by section 5(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844), and § 225.5(b) of Regulation Y (12 CFR 225.5(b)). The proposed revisions are designed to obtain data important for supervisory purposes, to provide the needed information on a more frequent basis and to simplify the reporting structure contained in the existing holding company reports. The Board originally requested that comments on the revisions to the FR Y-9 and the FR 2352 be received by August 7, 1985. The Board stated that it would receive comments on the revisions to the FR Y-6, including the nonbank financial data and the Quarterly Report to Bank Holding Company Changes, and the new Combined Financial Statement of Nonbank Subsidiaries for an additional 30 days, until September 5, 1985. This

date has also been extended to September 30, 1985.

By order of the Board of Governors, acting through its Secretary under delegated authority, effective August 2, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-18716 Filed 8-6-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Adminstration

Statement of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services covers the Social Security Administration (SSA). Sections SP.00, SP.00 and SP.10 and SP.20 of the SSA statement, as published in the **Federal Register** on August 7, 1979 (44 FR 46321-23), and amended on January 13, 1982 (47 FR 1427), describe the mission, organization and functions of SSA's Office of Central Operations (OCO).

Notice is given that Section SP.10 and SP.20 are amended to reflect the establishment of one Division of Earnings, Eligibility and Accountability and one Division of Operations Support OCO's Office of Central Records Operations (OCRO) (pages 46321 and 46322) and the abolishment of OCRO's Division of Earnings Operations and Division of Registration Operations (pages 46321 and 46322). The OCO material is amended as follows:

Section SP.10 *The Office of Central Operations*—(Organization) (page 46321):

E. The Office of Central Records Operations (SPP).

3. The Division of Earnings Operations (SPPC): Delete all material.

4. The Division of Registration Operations (SPPE): Delete all material.

Add:

3. The Division of Earnings, Eligibility and Accountability (SPPL).

4. The Division of Operations Support (SPPM).

Section SP.20 *The Office of Central Operations.*—(Functions) (page 46322):

E. The Office of Central Records Operations (SPP).

3. The Division of Earnings Operations (SPPC): Delete all material.

4. The Division of Registration Operations (SPPE): Delete all material.

Add:

3. The Division of Earnings, Eligibility and Accountability (SPPL).

a. Establishes records and maintains control of agreements with State and interstate entities and modifications of these agreements; and reviews wage statements submitted for State and interstate entity employees.

b. Corresponds with employers and the Internal Revenue Service about the correction and processing of employer wage reports and self-employment income reports.

c. Performs clerical operations necessary for the audit and control of the annual updating of employer earnings reports and for correcting improperly reported earnings items.

d. Directs the centralized supplemental security income (SSI) redetermination operations to ascertain accuracy of SSI payments. Refers possible overpayments and underpayments to district offices for resolution.

e. Directs the representative payee accountability operation to assure benefits are used in the beneficiary's best interest.

4. The Division of Operations Support (SPPM).

a. Provides programming, scheduling and operating support for the automated processing of operational, administrative, management and statistical computer programs for OCRO and other SSA components. Provides analytical and procedural support on OCRO workload data and processes. Develops technical requirements for information reporting systems. Converts magnetic tape files to computer output microfilm. Maintains OCRO magnetic tape library.

b. Processes source documents, keying input through data entry systems for subsequent input and processing through computer systems in OCRO and the Office of Systems Operations.

c. Provides internal mail, central microfilm storage and retrieval services to OCRO.

d. Performs microphotographic services for SSA. Maintains master copies of basic systems and microform records to assure continuous operations, should records be destroyed; reproduces, on film, records for current use and for preservation of a variety of employee and employer records.

Dated: July 29, 1985.

Nelson J. Sabatini,

Acting Deputy Commissioner for Management and Assessment.

[FR Doc. 85-18684 Filed 8-6-85; 8:45 am]

BILLING CODE 4190-11-M

Health Resources and Services Administration

Advisory Committee Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of September 1985:

Name: National Advisory Council on Nurse Training.

Date and Time: September 11-13, 1985, 9:00 a.m.

Place: Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open on September 11, 9:00 a.m.-11:00 a.m.

Closed for remainder of meeting.

Purpose: The Council advisers the Secretary and Administrator, Health Resources and Services Administration, concerning general regulations and policy matters arising in the administration of Title XXVII, National Health Service Corps, Health Professions Education, Nurse Training Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35). The Council also performs final review of grant applications for Federal assistance, and makes recommendations to the Administrator, HRSA.

Agenda: Agenda items for the open portion of the meeting will cover announcements; consideration of minutes of the previous meeting; reports by the Director, Bureau of Health Professions, the Financial Management Officer, BHPr., the Director, Division of Nursing, and staff reports. The meeting will be closed to the public on September 11, at 11:00 a.m. for the remainder of the meeting for the review of grant applications for advanced nurse training grants, nurse practitioner grants, special project grants, national research service awards, and research project grants. The closing is in accordance with the provision set forth in section 552b(c)(6), Title 5, U.S. Code and the Determination by the Acting Administrator, Health Resources and Services Administration, pursuant to section 10(d) of Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should write to or contact Dr. Mary S. Hill, Bureau of Health Professions, Health Resources and Services Administration, Room 5C-04, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-6193.

Agenda items are subject to change as priorities dictate.

Dated: August 1, 1985.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 85-18674 Filed 8-6-85; 8:45 am]

BILLING CODE 4160-15-M

Advisory Committee Meeting and Public Hearing

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following national advisory body scheduled to meet during the months of September and October 1985:

Name: Task Force on Organ Transplantation Public Hearing.

Date and Time: September 30, 1985 9:00 a.m.

Place: Wyndham at Dallas Market Center, 2222 Stemmons Freeway, Dallas, Texas 75207.

The testimony offered at the pubic hearing should concentrate on medical, legal, ethical, economic, and social issues presented by human organ procurement and transplantation. As examples, the Task Force is particularly interested in receiving testimony on ways in which the availability of donor organs can be increased, i.e., through increased improvements in organ procurement system, and how tissue and organ recovery can be better coordinated. Testimony is also welcomed on problems that patients encounter in gaining access to and paying for organ transplanation; the means by which equitable access to organ transplantation by patients, and to donated organs by transplant centers, can be assured; and whether the number of medical centers doing organ transplants is "sufficient or excessive." Finally, the Task Force would welcome testimony regarding the likely effectiveness of a national registry of human organ donors.

Those wishing to testify should contact Ms. Linda D. Sheaffer, Executive Director, no later then September 23, 1985, either by telephone or in writing. Once final arrangements have been made, those persons who expressed a desire to testify will be notified of the time limitations and other procedures which will apply to the Hearing. For example, there may be a limitation placed on the number of people testifying on behalf of any one organization. Written testimony pertinent to the issues being considered at the Hearing may be submitted to Ms. Sheaffer by persons unable to attend.

* * * *

Name: Task Force on Organ Transplantation.

Date and Time: October 1, 1985 8:30 a.m.

Place: Wyndham at Dallas market Center, 2222 Stemmons Freeway, Dallas, Texas 75207.

The entire meet is open to the public.

Purpose: The Task Force on Organ Transplantation is required to conduct comprehensive examinations of the medical, legal, ethical, economic, and social issues presented by human organ procurement and transplantation; including an assessment of immumosupressive medications used to prevent organ rejection in transplant patients. Reports on these issues are required to be submitted to the Department of Health and Human Services and the Congress later this year.

Agenda: The meeting will focus on organ donation, procurement, and placement. Agenda items will include reports on the results of memberships surveys conducted by a number of national organizations pertaining to issues being considered by the Task Force; a preliminary report of a study of the number of potential organ donors; and discussion on increasing organ donation through education and/or specific legislative action at the State level.

Public comment will be permitted from 4:00 p.m. until adjournment. Remarks will be limited to five minutes per speaker. Anyone wishing to make a statement, please notify Linda D. Sheaffer, Executive Director, by 10:00 a.m on October 1, 1985.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Ms. Linda D. Sheaffer, Executive Director, Office of Organ Procurement and Transplantation, Office of the Administrator, Health Resources and Services Administration, Room 17-60, Parklane Building, 5600 Fishers Lane, Rockville, MD 20857, telephone (301) 443-5911.

Agenda items are subject to change as priorities dictate.

Dated: August 1, 1985.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[DR Doc. 85-18675 Filed 8-6-85; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-14952-A, F-14952-B]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Unalakleet Native Corporation for approximately 35,100 acres. The lands involved are in the vicinity of Unalakleet.

Kateel River Meridian, Alaska

T. 18 S., R. 9 W. (Partially Surveyed)
T. 19 S., R. 9 W. (Partially Surveyed)
T. 18 S., R. 10 W. (Surveyed)
T. 19 S., R. 10 W. (Partially Surveyed)
T. 17 S., R. 11 W. (Partially Surveyed)
T. 18 S., R. 11 W. (Surveyed)
T. 19 S., R. 11 W. (Surveyed)
T. 20 S., R. 11 W. (Partially Surveyed)
T. 21 S., R. 11 W. (Partially Surveyed)
T. 17 S., R. 12 W. (Surveyed)
T. 21 S., R. 12 W. (Surveyed)

A notice of the decision will be published once a week for four (4) consecutive weeks, in the NOME NUGGET. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until September 6, 1985, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-18711 Filed 8-6-85; 8:45 am]

BILLING CODE 4310-JA-M

[F-14824-A]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613, will be issued to Kokarmuit Corporation for approximately 2.58 acres. The lands involved are in the vicinity of Akiak and are a portion of U.S. Survey No. 5068, Alaska, Tract A.

A notice of the decision will be published once a week for four (4) consecutive weeks in THE TUNDRA DRUMS. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until September 6, 1985; to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to

file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-18710 Filed 8-6-85; 8:45 am]

BILLING CODE 4310-JA-M

Battle Mountain District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Grazing Advisory Board Meeting.

SUMMARY: In accordance with Pub. L. 94-579, a meeting of the Battle Mountain District Grazing Advisory Board will be held.

DATE: September 11, 1985, begin at 8:00 a.m. in the Tonopah Convention Center, 301 Brougher, Tonopah, Nevada.

SUPPLEMENTAL INFORMATION: The agenda for the meeting will include:

1. Status of FY 85 range improvement projects,

2. A review of proposed FY 86 range improvement projects along with the investment analysis,

3. Tonopah Resource Area Grazing Program Review, and

4. Shoshone-Eureka Resource Area Allotment Categorization Criteria. The meeting is open to the public. Interested persons may make oral statements to the board between 11:30 and 12:00 a.m. on September 11, 1985, or file written statements for the Board's consideration. If you wish to make oral comments, please contact Michael C. Mitchel by September 4, 1985.

FOR FURTHER INFORMATION CONTACT: Michael C. Mitchel, Acting District Manager, P.O. Box 1420, Battle Mountain Nevada 89820, or phone (702) 635-5181.

Date: July 29, 1985.

Michael C. Mitchel,

Acting District Manager, Battle Mountain, Nevada.

[FR Doc. 85-18688 Filed 8-6-85; 8:45 am]

BILLING CODE 4310-HC-M

[NM-A 19755-(TX)]

New Mexico; Proposed Reinstatement of Termination Oil and Gas Lease

United States Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico 87501. Under the provisions of PL 97-451, Mobil Producing Texas and New Mexico, Inc. petitioned for reinstatement of oil and gas lease NM-A 19755-(TX) covering lands located in Davy Crockett National Forest in Houston County, Texas, further described by metes and bounds containing 2,560.00 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500.00 has been paid. Future rentals shall be at the rate of $5.00 per acre per year and royalties shall be at the rate of 16⅔ percent. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, January 1, 1985.

Tessie R. Anchondo,

Chief, Adjucication Section.

[FR Doc. 85-18686 Filed 8-6-85; 8:45 am]

BILLING CODE 4310-FB-M

District Advisory Council and Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Vale District, Interior.

ACTION: Notice of Meetings, District Advisory Council and Grazing Advisory Board.

SUMMARY: Notice is given in accordance with Pub. L. 92-463 that the Vale District Grazing Advisory Board will meet August 28 and the District Advisory Council will meet August 29, 1985. The agenda for both meetings will highlight the Oregon Statewide Wilderness recommendations and fiscal year 1986 project proposals.

ADDRESS: The meetings will begin at 9:00 a.m. in the conference room of the Vale District Office, 100 Oregon Street, Vale, OR 97918. The public is welcome to attend.

FOR FURTHER INFORMATION CONTACT: Barry Rose, Vale District Office, 503-473-3144.

David P. Lodzinski,

Vale District Manager.

[FR Doc. 85-18755 Filed 8-6-85; 8:45 am]

BILLING CODE 4310-33-M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and the Office of Management and Budget Interior Department Desk Officer, Washington, D.C. 20503, telephone 202-395-7340.

Title: Special Recreation Application and Permit From, 43 CFR Part 8372

Abstract: Respondents supply identifying information and data on proposed commercial, competitive, or individual recreational use respectively, when required, to determine eligibility for permit. This information allows the bureau to authorize requested use and determine appropriate fees. This information will also be used to tabulate recreation use data for the annual *Federal Recreation Fee Report* required by the Land and Water Conservation Fund.

Bureau Form Number: 8370-1

Frequency: Annually at selected Recreation areas/sites

Description of Respondents: Recreation visitors to areas of the public lands where special recreation permits are required.

Annual Responses: 1500

Annual Burden Hours: 750

Bureau clearance officer: Rebecca Daugherty, 202-635-8853

Dated: June 25, 1985.

Frank A. Edwards,

Assistant Director.

[FR Doc. 85-18690 Filed 8-6-85; 8:45 am]

BILLING CODE 4310-84-M

Livestock Grazing Environmental Impact Statements—Fiscal Year 1986

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: As required by the Court Order in *Natural Resources Defense Council, Inc., et al., v. Morton, et al.*, Civil Action No. 1983-73, this notice identifies 12 Resource Management

Plans (RMP's) and associated environmental impact statements (EIS's) covering the effects of livestock grazing scheduled for completion by the Bureau of Land Management during Fiscal Year 1986.

FOR FURTHER INFORMATION CONTACT: Billy Templeton, Chief, Division of Rangeland Resources, Bureau of Land Management, (220) 18th & C Streets, NW., Washington, D.C. 20240 (202/653-9193).

SUPPLEMENTARY INFORMATION: In accordance with the Court Order in *Natural Resources Defense Council, Inc., et al.*, v. *Morton et al.*, Civil Action No. 1983-73, the following described EIS's, involving 18,650,000 acres of public land, are scheduled for completion during Fiscal Year 1986. The acres of public land shown for each RMP include only those lands not previously discussed in a grazing EIS

RESOURCE MANAGEMENT PLANS

[Public land in thousands of acres]

EIS name	Acres	Description
Little Snake	1,171	An area in northwest Colorado within the Craig District and the Little Snake Resource Area.
South Dakota	280	An area in western South Dakota within the Miles City District and the Powder River Resource Area.
Eastern Arizona	1,071	An area in eastern Arizona within the Safford and Phoenix Districts and the San Simon, Gila, Phoenix and Kingman Resource Areas.
Lemhi	459	An area in northeastern Idaho within the Salmon District and the Lemhi Resource Area.
Baker	49	An area in northeast Oregon within the Vale District and the Baker Resource Area.
Esmeralda	3,373	An area in southwestern Nevada within the Las Vegas District and the Stateline—Esmeralda Resource Area.
Elko	3,260	An area in northeastern Nevada within the Elko District and the Elko Resource Area.
Carlsbad	1,014	An area in southeastern New Mexico within the Roswell District and the Carlsbad Resource Area.
Washakie	1,141	An area in north central Wyoming within the Worland District and the Washakie Resource Area.
San Juan	2,270	An area in southeastern Utah within the Moab District and the San Juan Resource Area.
Warm Springs	2,219	An area in west central Utah within the Richfield District and the Warm Springs Resource Area.
House Range	2,343	An area in west central Utah within the Richfield District and the House Range Resource Area.

Dated: August 1, 1985.

Vincent J. Hecker,

Acting Deputy Director, Lands and Renewable Resources.

State	EIS name	Public land AC. (000's)	Date filed
	FEIS Date FY 1985		
AZ	Lower Gila	2,079	
AZ	Yuma	1,192	
CO	San Juan-San Miguel [1]	959	12/19/84
ID	Medicine Lodge	603	8/14/85
ID	Monument	1,179	12/26/84
ID	Jarbidge	1,691	
MT	Garnet	151	
MT	Powder River [1]	1,072	12/14/84
NV	Lahontan [1]	2,422	11/08/84
NM	Rio Puerco	97	
NM	White Sands	948	
OR	John Day [1]	183	11/15/84
OR	Spokane	308	
OR	Two Rivers	294	
UT	Book Cliffs	1,097	11/30/84
UT	Box Elder	1,006	
UT	Cedar [1]	1,032	11/09/84
WY	Buffalo [1]	799	6/30/85
WY	Platte River [1]	1,418	11/05/84
WY	Kemmerer	1,633	
WY	Landor	1,026	
	Total	21,189	
	FEIS Date FY 1986		
AZ	Eastern Arizona	1,071	
CO	Little Snake	1,171	
ID	Lemhi	459	
MT	South Dakota	280	
NV	Esmeralda	3,373	
NV	Walker	1,922	
NV	Elko	3,260	
NM	Carlsbad	1,014	
OR	Baker	49	
UT	San Juan	2,270	
UT	House Range	2,343	
UT	Warm Springs	2,219	
WY	Washakie	1,141	
	Total	20,572	
	FEIS Date FY 1987		
ID	Cascade	514	
ID	Caribou	145	
NM	Farmington	602	
UT	Utah County	110	
WY	Medicine Bow	1,269	
WY	Pinedale	924	
	Total	3,564	
	FEIS Date FY 1988		
NM	Jornada	114	
NM	Toas	628	
UT	San Rafael	1,536	
WY	Cody	1,013	
	Total	3,291	

[1] Carryovers from FY 1984.

[FR Doc. 85-18678 Filed 8-6-85; 8:45 am]

BILLING CODE 4310-84-M

Proposed Oil and Gas Lease Form Revision

AGENCY: Bureau of Land Management, Interior.

ACTION: Publication of proposed changes to oil and gas lease form and geothermal lease form.

SUMMARY: On July 1, 1984, the Bureau of Land Management began using a new multipurpose oil and gas lease form (Form 3100-11) and a new geothermal resources lease form (Form 3200-24). As a result of internal review, the Bureau of Land Management is proposing changes to these forms.

DATE: Comments on the proposed changes should be submitted by October 7, 1985. Comments received or postmarked after the above date may not be considered in the final decisionmaking process.

ADDRESS: Comments should be submitted to: Director (620), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Karl Duscher or Gregory Shoop, (202) 653-2187.

SUPPLEMENTARY INFORMATION: Identical changes would be made to both forms. The proposed changes are as follows:

1. The "rights granted" clause would be amended to clarify that, in addition to the *exclusive* rights to drill for, extract, remove, sell, etc., a lease grants the *nonexclusive* right to conduct geophysical exploration on a leasehold. Since geophysicial exploration is a nonexclusive right, the Bureau had not previously listed it among the rights granted on the oil and gas lease form, and omitted it from the revised geothermal lease form simply in the interest of consistency. However, the new lease forms have been misinterpreted by some parties as not including the right to conduct geophysical operations. The proposed change would clarify that such right is included.

2. The requirement in section 6 of the lease forms that lessees contact the lessor "Prior to disturbing the surface of the leased lands" would be revised to require contact "Prior to entering the leased lands." This change will improve the ability of the Government to guide the lessee in preparing acceptable plans of operations.

3. A new paragrpah would be added to the end of section 6 to read as follows: "To the extent consistent with lease rights granted and specific provisions of this lease, surface use and occupancy is subject to the regulations of the surface managing agency." This addition simply recognizes that surface managing agencies have the right to regulate surface use and occupancy, as long as such regulation does not conflict

with the terms and conditions of the oil and gas lease contract.

Dated: July 31, 1985.

Arnold E. Petty,

Acting Associate Director.

[FR Doc. 85-18677 Filed 8-6-85; 8:45 am]

BILLING CODE 4310-84-M

[NM 46067]

New Mexico; Proposed Reinstatement of Termination Oil and Gas Lease

Under the provisions of Pub. L. 97-451, Pete M. Douglas petitioned for reinstatement of oil and gas lease NM 46067 covering the following described lands located in Chaves County, New Mexico:

T. 6 S., R. 29 E., NMPM.
Sec. 30: SE¼.
Containing 160.00 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500.00 has been paid. Future rentals shall be as the rate of $5.00 per acre per year and royalties shall be at the rate of 16⅔ percent. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, January 1, 1985.

Tessie R. Anchondo,

Chief, Adjudication Section.

[FR Doc. 85-18687 Filed 8-6-85; 8:45 am]

BILLING CODE 4310-FB-M

Fish and Wildlife Service

Availability of a Draft Environmental Impact Statement on the Adoption and Implementation of Coachella Valley Fringed-toed Lizard Habitat Conservation Plan and Endangered Species Act 10(a) Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the draft Environmental Impact Statement on the Adoption and Implementation of Coachella Valley Fringed-toed Lizard Habitat Conservation Plan and Endangered Species Act 10(a) Permit is available for public review. Comments and suggestions are requested. The following summary is provided for your use and information:

The proposed Federal action is the issuance of a permit under Section 10(a) of the Endangered Species Act to allow "incidental take" of the Coachella Valley fringed-toed lizard, a threatened species. The applicant, the local governments in the Coachella Valley and Riverside County in California, proposes that the permit be conditioned by a Habitat Conservation Plan. The Plan presents a complete disposition of all lands within the historic range of the CVFLL. Lands with high habitat values would be set aside in reserves; other lands would be managed or zoned to retain habitat values; and some lands would be designated for development. Developers would pay a mitigation fee which would partly fund acquisition of the reserves.

The DEIS considers six secondary alternatives to the proposed action. Five of the secondary alternatives consist of (1) two variations in number of reserves, (2) two variations in size of reserves, and (3) an alternate reserve location. The sixth secondary alternative involves individual land owner set asides. Which would not require a mitigation fee, and would not provide effective conservation.

The second primary alternative is no action, denial of an "incidental take" permit. This is essentially the status quo which does not provide for control of habitat loss outside of the reserves. The DEIS considers two secondary variations, enforcement of the Endangered Species Act without exception and a solely Federal preserve. Both would be more costly, and they would not be effective in preventing habitat loss and in promoting habitat conservation.

DATES: Written comments are requested by October 7, 1985.

A public meeting to receive comments will be held on September 12, 1985 from 7:00 to 9:00 p.m.

ADDRESS: Comments should be addressed to: Mr. Richard J. Myshak, Regional Director, U.S. Fish and Wildlife Service, 500 NE. Multnomah Street, Suite 1692, Portland, Oregon 97232.

A public meeting to receive comments will be held at the City Council Chambers, 3200 East Tahquitz—MacCallum in Palm Springs, California 97203 on September 12, 1985 from 7:00 to 9:00 p.m.

FOR FURTHER INFORMATION CONTACT: Merle Richmond, Environmental Specialist, U.S. Fish and Wildlife Service, 500 NE. Multnomah Street Suite 1692, Portland, Oregon 97232, Phone: Commercial (503) 231-6131; FTS 429-6131.

Individuals wishing copies of this EIS for review should immediately contact the above individual. Copies have been sent to all agencies and individuals who participated in the scoping process and to all others who have already requested copies.

Dated: July 31, 1985.

Richard J. Myshak,

Regional Director.

[FR Doc. 85-18670 Filed 8-6-85; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Determination of Concessioner Franchise Fees

AGENCY: National Park Service, DOI.

ACTION: Notice of intent.

SUMMARY: The National Park Service proposes to revise and update the method used to determine franchise fees paid by concessioners for the privilege of operating a commercial activity on National Park Service land. The proposed method links the determination of the fee to published industry statistics.

DATE: Comments must be received on or before October 7, 1985.

ADDRESS: Comments should be directed to: David E. Gackenbach, Chief, Concessions Division, National Park Service, P.O. Box 37127, Washington, D.C. 20013-7127.

FOR FURTHER INFORMATION CONTACT: Andrew Dixon, Chief, Finance Branch, Concessions Division, National Park Service, P.O. Box 37127, Washington, D.C. 20013-7127. Copies of the proposed franchise fee procedures are available on request.

SUPPLEMENTARY INFORMATION:

Background

Pub. L. 89-249 states in subsection 3(d) that "Franchise fees, however stated, shall be determined upon consideration of the probable value to the concessioner of the privileges granted by the particular contract or permit involved. Such value is the opportunity for net profit in relation to both gross receipts and capital invested".

Therefore, in setting a concessioner's franchise fee, the National Park Service considers that the probable value of the authorization should be determined by reviewing the concessioner's returns on gross receipts and equity capital and then making a judgment, in part, by comparing it to the returns of similar businesses. Implicit in this analysis is a

judgment as to how much of the results are based on the opportunity offered to the concessioner by both the terms of the contract and specifics of the operation and how much is the result of the management of the operation. Finally, the value must be translated into a fee on a systematic, consistent, and uniform basis.

Pub. L. 89–249 goes on to say that "Consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving the areas and of providing adequate and appropriate services for visitors at reasonable rates". That is, franchise fees shall not be set at such a level so as to impact on the physical environment or the quality of service to the visitor.

Present System

Franchise fees are presently set by computing an overall weighted minimum fee using the minimum rates established in four major sales categories. The overall minimum fee rate is then adjusted (increased/decreased) by taking into account the various economic considerations involved with the operation. In each analysis, five years of financial statistics, when available, are used so as to offset the effect of abnormal years.

Proposed System

The proposed system determines the minimum fee in much the same manner; however, the minimums are set at the lower quartile industry average of return on sales for each line of business. The use of such a minimum means that 75% of businesses in each line of business would show a profit if the minimum was paid, not considering the effects of income taxes. In addition, sales are broken down into eighteen sales categories rather than the existing four.

The proposed system includes a maximum fee rate. This rate is equal to one-half of the concessioner's adjusted profits before taxes and franchise fees as a percentage of total sales. The maximum is intended to be an upper limit guideline which would only be exceeded in the most unusual circumstances.

The recommended fee will normally be set somewhere between this minimum and maximum rate based on the concessioner's profitability history in comparison with reported industry statistics. Thus, those concessioners doing very well in comparison with similar businesses would pay fees closer to the maximum and vice versa.

A significant and necessary aspect of financial analysis will be to make adjustments where appropriate to the concessioner's reported profits. These adjustments will be consistent with the reporting of similar businesses and with the operating characteristics of the particular concession.

Richard E. Powers,

Acting Director.

[FR Doc. 85–18740 Filed 8–6–85; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the seventy-second meeting of the Board for International Food and Agricultural Development (BIFAD) on September 4, 1985.

The purpose of this meeting is to receive a report by Dr. Donald Paarlberg, Professor Emeritus at Purdue University, on a topic in international agricultural development appropriate to the observance of the 10th anniversary of Title XII; to hear a presentation by officials of the American Association of State Colleges and Universities (AASCU) on a proposed grant to AASCU; and to review experience with Collaborative Research Support Programs, including presentations by AID and university representatives on the concept and accomplishments of the programs, and a panel discussion on future directions.

The meeting will begin at 9:00 a.m. and adjourn at 12:30 p.m., and will be held in Conference Room B, Pan American Health Organization, 525 23rd Street NW., Washington, D.C. The meeting is open to the public. Any interested person may attend, may file written statements with the Board, before or after the meeting, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Director, Research and University Relations, Bureau for Science and Technology, Agency for International Development, is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, International Development Cooperation Agency, Washington, D.C. 20523, or telephone him at (703) 235–8929.

Dated: August 1, 1985.

Erven J. Long,

A.I.D. Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc. 85–18669 Filed 8–6–85; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–244 (Final)]

Carbon Steel Wire Rod From Venezuela

AGENCY: International Trade Commission.

ACTION: Institution of a final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701–TA–244 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Venezuela of carbon steel wire rod, provided for in item 607.17 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Venezuela. Commerce will make its final subsidy determination in this investigation on or before September 16, 1985, and the Commission wil make its final injury determination by November 7, 1985 (see sections 705(a) and 705(b) of the act (19 U.S.C. 1671d(a) and 1671(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201), as amended by 49 FR 32569, Aug. 15, 1984).

EFFECTIVE DATE: July 11, 1985.

FOR FURTHER INFORMATION CONTACT: Robert Eninger (202–523–0312), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the

Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the act (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Venezuela of carbon steel wire rod. The investigation was requested in a petition filed on April 8, 1985, by counsel on behalf of Atlantic Steel Co., Continental Steel Corp., Georgetown Steel Corp., North Star Steel Texas, Inc., and Raritan River Steel Co. In response to that petition the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (50 FR 23084, May 30, 1985).

Participation in the investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c), as amended by 49 FR 32569, Aug. 15, 1984), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff report

A public version of the prehearing staff report in this investigation will be placed in the public record on September 18, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on October 1, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on September 20, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on September 24, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is September 25, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2), as amended by 49 FR 32569, Aug. 15, 1984)).

Written submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on October 8, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before October 8, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 49 FR 32569, Aug. 15, 1984). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information.". Confidential submissions and requests for confidential treatment must conform with the requirements of 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, Title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 49 FR 32569, Aug. 15, 1984).

By order of the Commission.

Issued: July 31, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-18748 Filed 8-6-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-278 Through 281 (Preliminary)]

Certain Cast-Iron Pipe Fittings From Brazil, Korea, and Taiwan

AGENCY: International Trade Commission.

ACTION: Institution of preliminary antidumping investigations and scheduling of a conference to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigations Nos. 731-TA-278 through 281 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil [1] and the Republic of Korea (Korea) [2] of nonalloy, malleable [3] cast-iron pipe fittings, provided for in items 610.70 and 610.74 of the Tariff Schedules of the United States (TSUS), which are alleged to be sold in the United States at less than fair value, and by reason of imports from Taiwan of

[1] Investigation No. 731-TA-278 (Preliminary).

[2] Investigation No. 731-TA-279 (Preliminary).

[3] The malleable cast-iron pipe fittings covered by these investigations are those with standard pressure ratings of 150 pounds per square inch (psi) and heavy-duty pressure ratings of 300 psi.

nonalloy, malleable cast-iron pipe fittings, provided for in TSUS items 610.70 and 610.74,[4] and nonalloy, nonmalleable[5] cast-iron pipe fittings other than cast-iron soil pipe, provided for in TSUS items 610.62 and 610.65,[6] which are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by September 16, 1985.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: July 31, 1985.

FOR FUTHER INFORMATION CONTACT: Daniel Dwyer (202–523–4618), Office of Investigations, U.S. International Trade Commission, 701 E. Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to petitions filed on July 31, 1985 by the Cast Iron Pipe Fittings Committee.[7]

Participation in the investigations

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §201.11 of the Commission's rule (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to §201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with §§201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m. on August 22, 1985, at the U.S. International Trade Commission Building, 701 E. Street NW., Washington, DC. Parties wishing to participate in the conference should contact Daniel Dwyer (202–523–4618) not later than August 20, 1985 to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions

Any person may submit to the Commission on or before August 26, 1985 a written statement of information pertinent to the subject of the investigations, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with §201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of §201.6 of the Commission's rules (19 CFR 201.6).

Authority These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: August 1, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–18732 Filed 8–6–85; 8:45 am]

BILLING CODE 7020-02-M

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[4] Investigation No. 731–TA–280 (Preliminary).

[5] The nonmalleable cast-iron pipe fittings covered by this investigation are those with standard pressure ratings of 125 pounds per square inch (psi) and heavy-duty pressure ratings of 250 psi.

[6] Investigation No. 731–TA–281 (Preliminary).

[7] The 5 member producers of this committee are Stanley G. Flagg & Co., Inc., ITT-Grinnell, Stockman Valves & Fittings Co., U-Brand Corp., and Ward Foundry Division of Clevepak Corp. U-Brand Corp. did not join the other members of the committee in filing the petitions.

[Investigation No. 337–TA–213]

Certain Fluidized Bed Combustion Systems; Commission Decision To Vacate Initial Determination Designating the Investigation "More Complicated"

AGENCY: International Trade Commission.

ACTION: Vacation of initial determination designating investigation "more complicated."

SUMMARY: Notice is hereby given that the Commission has determined to vacate as moot an initial determination (ID) issued by the presiding administrative law judge (ALJ) designating the above-captioned investigation "more complicated." Order No. 12.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Esq., Office of General Counsel, telephone 202–523–0189.

SUPPLEMENTARY INFORMATION: On January 10, 1985, the Commission voted to institute the above-referenced investigation to determine whether there was a violation of section 337 in the unlawful importation into the United States of certain fluidized bed combustion systems, or in their sale, by reason of alleged: (1) Infringement of claims 1, 4, 5, or 8 of U.S. Letters Patent 4,279,205; (2) infringement of claims 1, 2, 4, or 5 of U.S. Letters Patent 4,303,023; (3) misappropriation of trade secrets, and (4) fraudulent inducement to enter into a license agreement, the effect or tendency of which is to destroy or substantially injure an efficiently and economically operated industry in the United States and/or prevent the establishment of such an industry.

On February 11, 1985, respondents ASEA STAL Inc., and ASEA STAL AB (collectively referred to as Stal Laval) filed a motion to dismiss the investigation for lack of subject matter jurisdiction and the existence of an agreement to subject all disputes concerning the licensing agreement at issue to arbitration. Complainant Wormser Engineering, Inc. (Wormser), and the Commission investigative attorney (IA) opposed the motion.

On June 4, 1985, Wormser filed a motion to designate the investigation "more complicated." Motion No. 213–26.

The IA supported the motion but Stal Laval initially opposed it. Subsequently, Stal Laval withdrew its objections to designating the investigation "more complicated" and entered its own request for a stay of proceedings.

On June 7, 1985, the ALJ issued an ID granting Wormser's motion. Order No. 12. On July 10, 1985, the Commission extended the administrative deadline for deciding whether to review the ID by 30 days. 50 FR 29000. The Commission terminated the investigation on July 17, 1985.

The authority for the Commission's action is contained in section 337 of the Tariff Act of 1930, 19 U.S.C. 1337.

Copies of the all non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

By order of the Commission.

Issued: August 2, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–18751 Filed 8–6–85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731–TA–211 (Final)]

Certain Welded Carbon Steel Pipes and Tubes From Taiwan

AGENCY: International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731–TA–211 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Taiwan of welded carbon steel pipes and tubes of rectangular (including square) cross section, having a wall thickness of less than 0.156 inch, provided for in item 610.4928 of the *Tariff Schedules of the United States Annotated*, which have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Unless the investigation is extended, Commerce will make its final LTFV determination on or before September 30, 1985, and the Commission will make its final injury determination by November 18, 1985 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: July 22 1985.

FOR FURTHER INFORMATION CONTACT: Cynthia Wilson (202–523–0291), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain welded carbon steel pipes and tubes from Taiwan are being sold in the United States at less than fair value within the meaning of section 731 of the act (19 U.S.C. 1673). The investigation was requested in a petition filed on December 18, 1984, by counsel for the Committee on Pipe and Tube Imports (CPTI). In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (50 FR 5326, February 7, 1985).

Participation in the investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission's as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

PUrsuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff report

A public version of the prehearing staff report in this investigation will be placed in the public record on September 30, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on October 16, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on October 1, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on October 7, 1985 in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is October 10, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2)).

Written submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included

in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on October 23, 1985. In addition, any person who has not entered an appearance as party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before October 23, 1985.

A signed original and fourteen (14) copies of such submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority This investigation is being conducted under authority of the Tariff Act of 1930, Title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-18749 Filed 8-6-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-224 (Final)]

Live Swine and Pork From Canada

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determine,[2] pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)), that an industry in the United States is materially injured by reason of imports from Canada of live swine,[3] provided for in item 100.86 of the Tariff Schedules of the United States, and that an industry in the United States is not materially injured or threatened with material injury, and that the establishment of an industry in the United States is not materially retarded, by reason of imports from Canada of fresh, chilled, or frozen pork,[4] provided for in item 106.40 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be subsidized by the Government of Canada.

Background

The Commission instituted this investigation effective April 3, 1985, following a preliminary determination by the Department of Commerce that imports of live swine and fresh, chilled, or frozen pork from Canada were being subsidized within the meaning of section 701 of the Act (19 U.S.C. 1671). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 24, 1985 (50 FR 16175). The hearing was held in Washington, DC, on June 25, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on July 31, 1985. The views of the Commission are contained in USITC Publication 1733 (July 1985), entitled "Live Swine and Pork from Canada: Determination of the Commission in Investigation No. 701-TA-224 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: July 31, 1985.

By order of the commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-18750 Filed 8-6-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-235 (Final)]

Carbon Steel Structural Shapes From Poland

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: On July 24, 1985, the Commission received a letter from counsel for the petitioner in the subject investigation, Chaparral Steel Co., which stated that Chaparral "hereby gives notice that it withdraws its petition . . . without prejudice and requests the Commission to terminate the investigation." Accordingly, pursuant to § 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the antidumping investigation concerning carbon steel structural shapes from Poland (investigation No. 731-TA-235 (Final)) is terminated.

EFFECTIVE DATE: July 30, 1985.

FOR FURTHER INFORMATION CONTACT: Bonnie Noreen (202-523-1369), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724-0002.

Authority: This investigation is being terminated under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.40 of the Commission's rules (19 CFR 207.40).

Issued: July 30, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-18744 Filed 8-6-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-205 (Final)]

Carbon Steel Wire Rod From the German Democratic Republic

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: On July 24, 1985, the Commission received a letter from counsel on behalf of Atlantic Steel Co., Continental Steel Corp., Georgetown Steel Corp., North Star Steel Texas, Inc., and Raritan River Steel Co., the original petitioners in investigation No. 731-TA-205 (Final), which withdrew their petition in this investigation. Accordingly, pursuant to § 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), investigation No. 731-TA-205 (Final) is terminated and the public hearing scheduled for August 8, 1985, is cancelled.

EFFECTIVE DATE: July 30, 1985.

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[1] The record is defined in § 207.2 (i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Chairwoman Stern and Commissioner Ludwick did not participate.

[3] Vice Chairman Liebeler determines that an industry in the United States is not materially injured, or threatened with material injury, and that the establishment of an injured in the United States is not materially retarded by reason of imports of live swine which are subsidized by the government of Canada.

[4] Commissioner Eckes determines that an industry in the United States is threatened with material injury by reason of imports of fresh, chilled, or frozen pork which are subsidized by the government of Canada.

FOR FURTHER INFORMATION CONTACT: Ann Reed (202–523–0255), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

Authority: This investigation is being terminated under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.40 of the Commission's rules (19 CFR 207.40).

Issued: July 31, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–18745 Filed 8–6–85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701–TA–248 (Final)]

Offshore Platform Jackets and Piles From the Republic of Korea

AGENCY: United States International Trade Commission.

ACTION: Institution of a final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701–TA–248 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the Republic of Korea (Korea) of offshore platform jackets and piles, provided for in item 652.97 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Korea. Commerce will make its final subsidy determination in this investigation on or before September 30, 1985, and the Commission will make its final injury determination by November 15, 1985 (see sections 705(a) and 705(b) of the act (19 U.S.C. 1671d(a) and 1671d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Daniel Dwyer (202–523–4618), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

SUPPLEMENTARY INFORMATION:

Background.

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the act (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Korea of offshore platform jackets and piles. The investigation was requested in a petition filed on April 18, 1985, by Kaiser Steel Corp., Napa, CA, and the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, Kansas City, KS. In response to that petition the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (50 FR 24716, June 12, 1985).

Participation in the investigation.

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than twenty-one (21) days after the publicaion of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list.

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff report.

A public version of the prehearing staff report in this investigation will be placed in the public record on September 24, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on October 10, 1985 at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on September 26, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on October 2, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is October 4, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2)).

Written submissions.

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on October 17, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before October 17, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for

confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: July 31, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-18747 Filed 8-6-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-239 (Final)]

Rock Salt From Canada

AGENCY: United States International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of a final antidumping investigation No. 731-TA-239 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of rock salt, provided for in items 420.94 and 420.96 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Commerce will make its final LTFV determination on or before November 27, 1985, and the Commission will make its final injury determination by January 10, 1986 (see Sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: July 15, 1985.

FOR FURTHER INFORMATION CONTACT: Brian Walters (202-523-0104), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of rock salt from Canada are being sold in the United States at less than fair value within the meaning of section 731 of the act (19 U.S.C. 1673). The investigation was requested in a petition filed on January 28, 1985, by the International Salt Co., Clark Summit, PA. In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that industry in the United States was materially injured by reason of imports of the subject merchandise (50 FR 11257, March 20, 1985).

Participation in the investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d)) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff report

A public version of the prehearing staff report in this investigation will be placed in the public record on November 19, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on December 5, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on November 25, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on December 2, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is November 29, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2)) of the Commission's rules (19 CFR 201.6(b)(2)).

Written submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on December 12, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before December 12, 1985.

A signed original and fourteen (14) copies of each submission must be filed

with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: July 31, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-18748 Filed 8-6-85; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-6 (Sub-No. 230)]

Burlington Northern Railroad Co; Abandonment in Gallatin County, MT; Findings

The Commission has found that the public convenience and necessity permit the Burlington Northern Railroad Company to abandon its 15.20-mile rail line between milepost 0.28 near Manhattan and milepost 15.48 near Anceney, in Gallatin County, MT.

A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Secretary.

[FR Doc. 85-18193 Filed 8-6-85; 8:45 am]

BILLING CODE 7035-01-M

[ICC Order No. P-86]

Union Pacific Railroad Co., Passenger Train Operation

It appearing, that the National Railroad Passenger Corporation (AMTRAK) has established through passenger train service between Chicago, Illinois and San Francisco, California. The operation of these trains requires the use of tracks and other facilities of Burlington Northern Railroad Company (BN). A portion of the BN tracks at Holbrook, Nebraska, are termporarily out of service because of a derailment. An alternate route is available via the Union Pacific Railroad Company between Lincoln, Nebraska and Denver, Colorado.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, (a) Pursuant to the authority vested in me by order of the Commission decided April 29, 1982, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), the Union Pacific Railroad Company (UP), is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between Lincoln, Nebraska and a connection with The Denver and Rio Grande Western Railroad Company at Denver, Colorado.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application*. The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date*. This order shall become effective at 9:15 p.m., EDT, July 21, 1985.

(e) *Expiration date*. The provisions of this order shall expire at 11:59 p.m., EDT, July 21, 1985, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon Union Pacific Railroad Company and upon National Railroad passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 21, 1985.

Interstate Commerce Commission.

Bernard Gaillard,

Director, Office of Compliance and Consumer Assistance.

[FR Doc. 85-18692 Filed 8-6-85; 8:45 am]

BILLING CODE 7035-01-M

Appointment of Agents To Require Emergency Routings of Amtrak Passenger Trains

Section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)) requires the Commission to take emergency actions pertaining to the use by the National Railroad Passenger Corporation (Amtrak) of the tracks and facilities of other railroads.

Under certain conditions the necessity of immediate action may be such as to require determination and action by a single individual because of the time required to convene the Commission to receive and act upon an application from Amtrak for an emergency order.

It is ordered, appointment of agents to require emergency routings of Amtrak Passenger Trains.

(a) * Bernard Gaillard, Director, * William J. Love, Acting Associate Director, and John H. O'Brien, Deputy Director, Office of Compliance and Consumer Assistance, Interstate Commerce Commission, Washington, D.C., are hereby appointed Agents of the Interstate Commission and vested with authority to issue emergency orders requiring a railroad immediately to make its tracks and other facilities available to Amtrak for the operation of its passenger trains.

* (b) *Effective date.* This order shall become effective at 12:01 a.m., August 4, 1985.

This action is taken under the authority of 49 U.S.C. 10305 and 45 U.S.C. 562 (c).

Decided: July 24, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley, and Strenio.

James H. Bayne,

Secretary.

[FR Doc. 85-18691 Filed 8-6-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-250X]

Cadiz Railroad Co., Inc.—Abandonment Exemption—in Trigg County, KY; Exemption

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exemption Abandonments* to abandon its 2.18-mile line of railroad between milepost 0+00 and milepost 115+00 in or near Cadiz, in Trigg County, KY.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective September 6, 1985, (unless stayed pending reconsideration). Petitions to stay must be filed by August 19, 1985, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by August 27, 1985, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: H.S. White, P.O. Drawer B, Cadiz, KY 42211.

* Change in agent and effective date.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: July 24, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-18041 Filed 8-6-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 13-85]

Privacy Act of 1974; Modified System of Records

Under the provisions of the Privacy Act of 1974 (5 U.S.C. 552a) the Department of Justice, Antitrust Division, proposes to modify an existing system of records entitled "Freedom of Information/Privacy—Requester/Subject Index File (Justice/ATR-008)." Notice of this system was last published in the **Federal Register** on September 28, 1978 (43 FR 44713).

The Division is revising the notice to show that the system is exempted from subsections (c)(3), (d), (e)(4)(G) and (H), and (f). These exemptions are needed to protect ongoing investigations, as well as the privacy of third parties and the identity of confidential sources involved in such investigations. Further, in addition to making editorial changes for clarity purposes, the Division is revising the notice to modify the "Storage," "Retrievability," and "Safeguards" sections. These sections now reflect that data is being stored on magnetic tapes and disks and accessed by on-line retrieval methods. Changes have been italicized.

The Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 60-day period in which to review the proposed automation of the system. Therefore, the Department invites the public, OMB, and the Congress to submit written comments on this system.

You may address comments to: Thomas F. O'Leary, Assistant Director, General Services Staff, Justice Management Division, Department of Justice, Room 6312, 10th and Constitution Avenue, NW, Washington, D.C. 20530.

In accordance with Privacy Act requirements, the Department has provided a report to the Director, OMB, the President of the Senate, and the Speaker of the House of Representatives.

Date: May 30, 1985.

Harry H. Flickinger,

Acting Assistant Attorney General for Administration.

JUSTICE-ATR-008

SYSTEM NAME:

Freedom of Information/Privacy Requester/Subject Index File

SYSTEM LOCATION:

U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have requested information under the Freedom of Information and Privacy Acts from files maintained by the Antitrust Division and individuals about whom material has been requested under the above acts.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains a record of every FOIA/PA request made, along with the response, copies of documents which have been requested, and internal memoranda or other records related to the initial processing of such request, subsequent appeals and/or litigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S. 3101 to implement the provisons of 5 U.S.C. 552 and 5 U.S.C. 552a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This index is maintained for ready reference by Division personnel for the identification of the subject matter of and persons orginating Freedom of Information and Privacy Act requests. Such reference is utilized in aid of access to files, maintained by the Freedom of Information and Privacy Unit, for purposes of reference to requests on appeal, questions concerning pending or terminated requests, and compliance with requests similar or identical to past requests.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless its is determined that release of the specific information in the context of

a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents are stored in file folders; abbreviated or summarized information is stored on manual index cards and on magnetic disks and tapes.

RETRIEVABILITY:

Request files are retrieved by case number or through a cross reference to the manual and automated indexes which are accessed by name. Summary data on requests received through July 31, 1983, is retrieved from the index cards; summary data as of August 1, 1983, is retrieved from magnetic disks and tapes. Summary data consists of such data elements as name of requester, date and subject of request, date assigned, response date (and a brief description of the response), case number, and date appealed, if applicable, etc.

SAFEGUARDS:

Information contained in the system is unclassified. During duty hours access to this system is monitored and controlled by Antitrust Division personnel in the area where the system is maintained. The area is locked during non-duty hours. In addition, only Antitrust Division personnel who have a need for the information contained in the system have the appropriate password for access to the system.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER(S) AND ADDRESS:

Freedom of Information and Privacy Acts Control Officer, Antitrust Division, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address inquires to the Assistant Attorney General, Antitrust Division, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

RECORD ACCESS PRODEDURES:

Request for access to a record from this system should be made in writing and be clearly identified as a "Privacy Access Request." Included in the request should be the name of the individual having made the Freedom of Information request and/or the individual about whom the records were requested. Requesters should indicate a return address. Requesters will be directed to the System Manager shown above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the index should direct their request to the System Manager and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Source of the information maintained in the system are those records derived from the receipt and processing of Freedom of Information and Privacy Act requests.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system of records from subsections (c)(3), (d), (e)(4) (G) and (H), and (f) of the Privacy Act. This system is exempted pursuant to 5 U.S.C. 552a(k)(2) to the extent that the records contained in the system reflect Antitrust Division law enforcement and investigative information. Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the **Federal Register.**

[FR Doc. 85-18685 Filed 8-6-85; 8:45 am]

BILLING CODE 4410-01-M

Proposed Consent Decree in Clean Water Act and Resource Conservation and Recovery Act Enforcement Action; Omega Processing Co.

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. Omega Processing Co.*, Civil Action No. 84-0346-F (D. Mass.) has been lodged with the United States District Court for the District of Massachusetts. The consent decree requires the defendants to comply with section 301 of the Clean Water Act, 33 U.S.C. 1311 and applicable Massachusetts hazardous waste regulations set forth at 310 C.M.R. 30.300 *et seq.* which are requirements of subtitle C of the Resource Conservation and Recovery Act, 42 U.S.C. 6921 *et seq.*, and to pay penalties of $25,000 to the United States for past violations.

The consent decree may be examined at: (1) The office of the United States Attorney, District of Massachusetts, J. W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109; (2) the Office of Regional Counsel, U.S. Environmental Protection Agency, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203; and (3) the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515 Main Justice Building, 10th Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Department of Justice at a cost of $1.70 ($0.10 per page reproduction charge). In requesting a copy, please refer to *United States v. Omega Processing Co.*, D.J. #90-5-1-1-2139.

The Department of Justice will receive comments concerning the decree for thirty (30) days from publication of this Notice. Comments should be addressed to the Assistant Attorney General, Land and Natural Resoures Division, Department of Justice, Washington, D.C. 20503 and should reference *United States v. Omega Processing Co.*, D.J. #90-5-1-1-2139.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-18576 Filed 8-6-85; 8:45 am]

BILLING CODE 4410-10-M

LEGAL SERVICES CORPORATION

Announcement of Intention to Award Funds and Request for Comments

AGENCY: Legal Services Corporation.

ACTION: Announcement of Intention to Award Funds and Request for Comments.

SUMMARY: The Legal Services Corporation through its Office of Field Services announces its intention to

award one-time minigrants for the one year period beginning September 6, 1985 and ending September 6, 1986, in the following amounts:

Recipient	Nature of program	Amount requested
National Consumer Law Center, Region I	Development of Consumer Law Training Manual and Training materials.	$4,600
Monroe County Legal Assistance Corporation, Region II	Delivery of Basic Lawyering Skills Training to Staff attorneys	3,280
National Veterans Legal Services, Region III	Provide veteran organizations with the expertise to assist veterans legally in the Agent Orange litigation.	22,500
Community Legal Clinics (George Washington University), Region III	Recruit, train and place four Washington Metropolitan area residents in Legal Services support positions.	28,635
Legal Aid Society of Charleston, Region IV	Delivery of Social Security directory training	5,488
Legal Aid Society of Dayton, Inc., Region IV	Development and delivery of women in management training for legal services women managers.	10,530
Virginia Poverty Law Center, Region IV	Delivery of New Lawyer substantive law training on public benefits for staff and private attorneys and paralegals.	3,249
New Orleans Legal Assistance Corp., Region VI	Production of manual for project directors on the managerial responsibilities that can be undertaken by graduate student interns.	7,250
Atlanta Bar Assoc., Region VI	Delivery of substantive law training to private, *pro bono* volunteers.	22,500
South Mississippi Legal Services Corporation, Region VI	Development and delivery of substantive Mississippi law seminars to staff and private attorneys, paralegals, managers and clients.	15,000
South Carolina Legal Services Association, Region VI	Trial skills training for staff attorneys	2,299
Louisiana Legal Consortium, Region VI	Delivery of training on consumer law problems of the poor to staff and private attorneys.	3,100
Florida Legal Services, Region VI	Federal litigation training for staff attorneys	2,295
Texas Legal Services Center, Region VII	Indigent health care advocacy training for staff and private attorneys and paralegals.	6,700
Arizona Statewide Legal Services, Region VII	Development of trial skills training for tribal court advocates	7,686
Texas Legal Services Center, Region VII	Development and delivery of middle manages training	6,812
Total 16 Grants		$151,924

These awards are made to supplement the funding of training activities of field programs, national and state support units, bar associations, law schools and other interested parties.

These funds will be awarded on a non-recurring basis under the authority of Pub. L. 98–411 and section 1006(a)(1)(B) and section 1006(a)(3) of the Legal Services Corporation Act of 1974 as amended.

There will be no refunding rights for these one-time grants.

Notice is issued pursuant to section 1007(f) of the Legal Services Corporation Act of 1974 as amended, with a request for comments and recommendations within a period of thirty (30) days from the date of publication of this notice.

The grant award will not become effective and grant funds will not be distributed prior to the expiration of the thirty-day period.

DATE: All comments must be received by the Legal Services Corporation within 30 days from the date of publication on this notice.

FOR FURTHER INFORMATION CONTACT: Cynthia B. Heine, National Training Coordinator, Legal Services Corporation, Office of Field Services, 733 Fifteenth Street NW., Washington D.C. 20005.

SUPPLEMENTARY INFORMATION: Grants are awarded on a competitive basis, and pursuant to the Legal Services Corporation's announcement of availability of funds. Announcement of funding availability was made for field programs, national and state support units, bar associations, law schools and other interested parties to supplement the funding of training activities [Request for Proposals: Training Development and Delivery memorandum, April 3, 1985].

The Legal Services Corporation intends these grants to increase and improve the quality of legal services to the poor through the training of the individuals who will provide those legal services.

John G. Meyer,

Associate Director, Office of Field Services.

[FR Doc. 85–18698 Filed 8–6–85; 8:45 am]

BILLING CODE 6820-35-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–293–OLA]

Boston Edison Co. (Pilgrim Nuclear Power Station); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license amendment proceeding: Alan S. Rosenthal, Chairman, Dr. W. Reed Johnson, Gary J. Edles.

Dated: August 1, 1985.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 85–18728 Filed 8–6–85; 8:45 am]

BILLING CODE 7590-01-M

Issuance of NUREG–0956; "Reassessment of the Technical Basis for Estimating Source Terms"

The Nuclear Regulatory Commission has issued a report, NUREG–0956, [Draft for Comment) "Reassessment of the Technical Bases for Estimating Source Terms." The report was written by the NRC staff.

Draft NUREG–0956 describes the effort by the NRC staff and their contractors to reassess and update the analytical procedures used to estimate severe accident source terms for nuclear power plants. A source term is defined as the quantity, timing, and characteristics of the release of radioactive material to the environment following a core melt accident. Source terms are used in many areas of the regulatory process. In their report, the staff describes the analytical procedures, the results, the review process, insights on risk, future research, and conclusions.

Public comments are being solicited on Draft NUREG–0956. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. (by October 7, 1985.)

Draft NUREG–0956 is available for inspection and copying at the NRC Public Document Room 1717 H Street, Washington, DC. Copies may be obtained by calling (202) 275–2060 or writing the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7982.

(5 U.S.C. 552 (a))

Dated this 2nd day of August 1985.

For the Nuclear Regulatory Commission.

Denwood F. Ross, Jr.,

Deputy Director, Office of Nuclear Regulatory Research.

[FR Doc. 85–18727 Filed 8–6–85; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) Collection title: Public Service Pension Information Request.
(2) Form(s) submitted: T–18.
(3) Type of request: New collection.
(4) Frequency of use: Once only.
(5) Respondents: Individuals or households.
(6) Annual responses: 230,000.
(8) Collection description: A spouse or survivor annuity under the RR Act may be subjected to a reduction for a public service pension. The one-time information request obtains information needed to identify female beneficiaries on the Board's rolls whose benefits may be subject to the reduction.

Additional Information or Comments

Copies of the proposed forms and supporting documents can be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Judy McIntosh (202–395–6880), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR. Doc. 85–18753 Filed 8–6–85; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22–14081]

Application and Opportunity for Hearing; BP North American Finance Corp.

August 1, 1985.

Notice is hereby given that BP North American Finance Corporation ("the Company") has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (hereinafter sometimes referred to as the "1939 Act") for a finding by the Securities and Exchange Commission that the trusteeship of The Chase Manhattan Bank (National Association) ("Chase") under an indenture dated as of February 1, 1976 (the "Chase Indenture") among the Company, The British Petroleum Company p.l.c. (formerly The British Petroleum Company, Limited), Guarantor ("the Guarantor") and Chase, relating to the Company's 9¼% Guaranteed Debentures Due 2001 ("the Chase Indenture") and the indenture dated as of June 15, 1983 among the Company, the Guarantor and Morgan Guaranty Trust Company of New York (the "1983 Indenture") and the indenture dated as of August 15, 1975 among the Company, the Guarantor and Manufacturers Hanover Trust Company (the "1975 Indenture") (the 1975 Indenture and the 1983 Indenture are sometimes referred to collectively as the "BP Finance Indentures") is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chase from acting as Trustee under the Chase Indenture and the BP Finance Indentures.

Section 310(b) of the 1939 Act provides in part that if a trustee under an indenture qualified under the 1939 Act has or shall acquire any conflicting interest, it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such section provides, in effect with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded form the operation of this provision another indenture under which other securities of the same issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under one of such indentures.

In support of its application, the Company alleges that: (1) As of July 11, 1985, the Company had outstanding $75,000,000 aggregate principal amount of its 10% Guaranteed Debentures Due 2000 (the "10% Guaranteed Debentures") issued under the 1975 Indenture. The 10% Guaranteed Debentures were registered under the Securities Act of 1933, as amended (File No. 2–54233), and the 1975 Indenture was qualified under the Act. As of the date hereof, the Company had not issued any indebedness under the 1983 Indenture which was also qualified under the Act;

(2) No debt securities other than the Company's 10% Guaranteed Debentures hve been issued under any of the BP Finance Indentures;

(3) The Chase Indenture and the BP Finance Indentures are wholly unsecured, and will rank *pari passu inter se;*

(4) The Company's obligation to make payments on the 9¼% Guaranteed Debentures issued under the Chase Indenture will not be superior or inferior in right of payment to the Company's obligation to make payments on the 10% Guaranteed Debentures;

(5) The Company is not in default under the Chase Indenture or the 9¼% Guaranteed Debentures;

(6) The Company is not in default under the BP Finance Indentures or the 10% Guaranteed Debentures;

(7) Such differences as exist between the Chase Indenture and the BP Finance Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection holders of the 9¼% Guaranteed Debentures or the 10% Guaranteed Debentures to disqualify Chase from acting as trustee thereunder; and,

(8) The Company has waived any hearing on the issues presented by its application, as well as notice of any hearing, and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, File No. 22–14081, which is a public document on file in the office of the Commission at the Public Reference Room, 450 5th Street, N.W., Judiciary Plaza, Washington, DC 20549.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after August 26, 1985, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of section 310(b)(1) of the 1939 Act. Any interested person may, not later than August 26, 1985 at 5:30 PM., Eastern Daylight Savings Time, in writing, submit to the Commission his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request shall be addressed: John Wheeler, Secretary, Securities and Exchange Commission 450 Fifth Street NW., Washington, DC 20549.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-18757 Filed 8-6-85; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review By Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension file No.	Form/regulation
270-51	Form 10.
270-58	Form S-1.
270-63	Form S-8.
270-64	Form S-11.
270-49	Form 10-Q.
270-60	Form S-2.
270-61	Form S-3.
270-137	Regulation 13D/G, Schedule 13D/Schedule 13G.
270-55	Form 8B.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval the following regulation/forms:

Form 10—Registration statement pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934 (1934 Act);

Form S-1—Registration statement—Securities Act of 1933 (1933 Act);

Form S-8—Registration for securities to be offered to employees pursuant to certain plans;

Form S-11—Registration of securities of certain real estate companies;

Form 10-Q—Quarterly report pursuant to section 13 or 15(d) of the 1934 Act;

Form S-2—Registration statement (1933 Act);

Form S-3—Registration statement (1933 Act);

Regulation 13D-G—Beneficial ownership of certain registered equity securities;

Form 8-B—Registration statement pursuant to section 12(b) or (G) of the 1934 Act for certain successor issuers.

Submit comments of OMB Desk Officer: Ms. Katie Lewin, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

John Wheeler,

Secretary.

August 2, 1985.

[FR Doc. 85-18756 Filed 8-6-85; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-14652; File No. 812-5796]

IDS Certificate Co.; Notice of Application

July 31, 1985.

Notice is hereby given that IDS Certificate Company (formerly Investors Syndicate of America, Inc.) ("Applicant"), IDS Tower, Minneapolis, Minnesota 55402, filed an application on March 7, 1984, and amendments thereto on July 29, 1984, and January 25, 1985, for an order of the Commission pursuant to Section 28(c) of the Investment Company Act of 1940 (the "Act"), approving a new form of Depository and Custodial Agreement and approving IDS Trust Company as its potential custodian. IDS Trust Company, chartered in 1979 under Minnesota state law, and Applicant are both wholly-owned subsidiaries of IDS/American Express, Inc., and, accordingly, Applicant is an affiliated person of IDS Trust Company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for text of the relevant provisions thereof.

According to the applicant, applicant is a face-amount certificate company registered under the Act. Applicant has issued face-amount certificates since 1941 and currently has 51 series of face-amount certificates outstanding. On November 16, 1940, the Commission issued an order (Investment Company Act Release No. 18) which approved a Depository Agreement between Applicant and The Marquette National Bank. Since that time, the Commission has issued numerous orders approving amendments to said Depository Agreement in connection with new series of face-amount certificates offered by Applicant.

Applicant now seeks a Commission order approving a new form of Depository and Custodial Agreement ("Agreement"). Applicant represents that obtaining advance approval of the form of Agreement would permit Applicant to negotiate from time to time with various providers of custodial services, and, if, because of dissatisfaction with the quality of a custodian's services, fee increases, or for other reasons, Applicant felt it was more advantageous to change custodians, it could enter into an arrangement with another provider using a form of agreement substantially identical to the Agreement. The Commissions's approval of the form of Agreement, Applicant submits, will enable it to change custodians without the delays or interruptions associated with seeking a new order of the Commission. The substantive portions of the Agreement would not vary; the only changes would be in minor procedures or fees. If material changes were to occur in the substantive provisions of the Agreement (not including the addition or deletion of certificate series), Applicant represents that it would seek an amended order. All of Applicant's assets will be held by the custodian pursuant to the Agreement, with the exception of assets a state may require to be separately deposited.

Applicant will only enter into custodial arrangements with institutions which meet the requirements of section 26(a)(1) of the Act. In addition, before entering into the Agreement with a new custodian, Applicant will undertake an analysis of various aspects of the prospective custodian. Applicant will obtain a full schedule of all fees, charges and expenses to be charged to Applicant for the custodial services. Such fees shall be broken down according to the type of service provided and, according to the application, Applicant will prepare from this information an analysis of the fee schedule and determine the approximate annual cost of the custodial services. A prospective custodian will have to demonstrate to Applicant that it is satisfactory from this standpoint and also from a qualitative standpoint. Applicant states that its Board of Directors will be required to approve the custodian by majority vote, including a majority of the independent directors and, once approved, the Board of Directors will review the custodial arrangements on an annual basis to determine if the quality of service remained satisfactory and the fees were reasonably competitive, as that term has been explained by Applicant.

Applicant contends that, consistent with the public interest and for the protection of investors, section 28(c) gives the Commission broad authority to approve custodial arrangements for face-amount certificate companies, and simply requires that face-amount certificate companies enter into custodial arrangements with institutions having the qualifications of section 26(a)(1) of the Act. It notes that the Commission is expressly permitted to impose its restrictions by rule, regulation or order. Applicant submits that, with the protections and conditions set forth in the application, the Commission is properly fulfilling its statutory duty to act in the public interest and for the protection of investors.

Applicant states that it wishes to enter into the Agreement with IDS Trust Company ("IDS Trust") and seeks Commission approval of IDS Trust Company as its potential custodian. Applicant states that its officers and employees investigated several different custodial service providers, including IDS Trust. Based on a detailed comparison of the prospective custodians fees, IDS Trust was found most favorable from that standpoint. IDS Trust and the other prospective custodians were also found to be satisfactory from a qualitative standpoint; the primary qualitative advantage of IDS Trust over the other custodians was found to be increased efficiency and convenience due to IDS Trust's close location and its extensive knowledge of the operations and investments of IDS and its subsidiaries, including Applicant. Consequently, Applicant found IDS Trust to be satisfactory and preferable from both standpoints, and Applicant's Board of Directors approved IDS Trust as its future custodian, subject to Commission action. In making this determination the Board gave consideration to the below described applicable regulation under Minnesota law of IDS Trust.

In addition to requiring Commission approval of the depository arrangements, section 28(c) of the Act requires, as noted above, that all depository agreements be entered into with institutions having the qualifications set forth in section 26(a)(1) of the Act. One of the requirements of section 26(a)(1) for such institutions is that they have aggregate capital, surplus and undivided profits of more than $500,000. Applicant states that IDS Trust meets this requirement. The other applicable requirement of section 26(a)(1) is that the institution be a bank. Applicant states that IDS Trust also meets this requirement, since IDS Trust satisfies the criteria of a "bank" under section 2(a)(5) of the Act.

First section 2(a)(5) of the Act defines "bank" to include a trust company doing business under the laws of any state. IDS Trust is represented to be a trust company organized under the banking laws of the State of Minnesota and is doing business under Minnesota law relating to trust companies.

A second element in the section 2(a)(5) definition requires that the fiduciary powers granted to IDS Trust and other state-chartered trust companies under Minnesota law be similar to those granted to national banks. The application states that Minnesota law permits a Minnesota trust company to perform fiduciary functions which are virtually identical to those of national banks described in the Comptroller's regulations at 12 CFR 9.1(b). IDS Trust has also adopted internal procedures said to be comparable to the Comptroller of the Currency's regulations concerning national banks' fiduciary powers. In this regard, Applicant sets forth the procedures which have been adopted and cites several comparable provisions of the Comptroller's regulations. The application states that for so long as Applicant is a client of IDS Trust, IDS Trust undertakes not to materially adversely alter its internal trust account procedures as they affect Applicant except that it may modify them to (i) respond to changes in the Comptroller's regulations, or (ii) respond to or conform with changes suggested by the Minnesota state banking regulators.

Applicant claims that a third element of the section 2(a)(5) definition requiring supervision by state authority is met because IDS Trust is subject to supervision, regulation and examination by the Minnesota Department of Commerce (Banking Division) (the "Minnesota Banking Commissioner") and to Minnesota statutes relating to trust companies. According to the application, the Minnesota Banking Commissioner is required to "exercise a constant supervision" over the books and affairs of all trust companies doing business within the state, and to inspect and verify the assets and liabilities as part of an examination to be conducted at least annually. A copy of the Department of Commerce's "Statement of Principles of Trust Department Management" is given to the trust company's Board of Directors as part of the inspection report for each trust company. The statement is a summary of the minimum requirements for sound banking practices in the operation of trust departments. Applicant states that the terms of the statement are similar to both the internal procedures of IDS Trust and the major provisions of the Comptroller's regulations concerning fiduciary powers of national banks. While this statement may change from time to time and does not have the force of law, Applicant submits that it is evidence that the state of Minnesota exercises its supervisory and oversight authority over trust companies in a manner consistent with that of the Comptroller.

Finally, section 2(a)(5) applies only with respect to entities which are not operated for purposes of evading the Act. Applicant asserts that IDS Trust was not operated for the purpose of evading the provisions of the Act, but was established by IDS/American Express Inc., a large, diversified financial services organization, for legitimate business and competitive purposes—to be able to provide fiduciary services so as to become and remain competitive with other banks and trust companies in the furnishing of such services to certain of its customers. As of December 31, 1984, IDS Trust has a total of 65 full-time employees responsible for 68 advisory accounts and 64 custodial accounts, and performed safekeeping functions similar to those specified in the Agreement for 17 other customers with assets totalling $3.9 billion. According to the application, all securities are physically segregated in the vault with restricted access, IDS Trust uses armed couriers and has a $35 million bankers blanket bond, supplemented by $500 million in lost securities insurance coverage. IDS Trust's internal controls are confirmed annually by a report of its independent auditors and, in addition, IDS Trust's procedures and activities are monitored by the IDS/American Express Internal Audit Department, including periodic physical vault counts.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 23, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-18703 Filed 8-6-85; 8:5 am]

BILLING CODE 8010-01-M

[Rel. No. 34-22279; File No. SR-NASD-85-13]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Resolutions of the Association's Board of Governors

Pursuant to section 19(b) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 24, 1985, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Association is requesting formal Commission approval of certain existing resolutions of the Association's Board of Governors relating to the administration of the Association and is relocating the resolutions from its By-Laws to the various Schedules in the By-Laws.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A recodification of the Association's By-Laws was approved by the Commission in Release No. 34-21843 (March 12, 1985). The former By-Laws contained a number of resolutions of the Board of Governors. The placement of these in the NASD Manual reflected the Board's desire to inform the membership of certain Board actions and policies. They did not require a membership vote, nor prir to 1975, formal SEC approval. Some of the resolutions contain substantive requirements which would now be treated as rule filings by the SEC. These may eventually be incorporated into the various Schedules of the By-Laws as part of the recodification process. In the meantime, to the extent these Board resolutions serve as a basis for NASD action, formal SEC approval is sought to reaffirm the validity of such action. At the same time, the largely administrative nature of these resolutions suggests they are more properly placed with the various Schedules rather than in the text of the By-Laws. Any changes to the text is largely designed to reflect the placement of these within the Schedules and to correct cross-references to the By-Laws.

The proposed resolutions to the By-Laws and Schedules are designed to aid the Association in more adequately fulfilling its responsibilities as defined under section 15A of the Securities Exchange Act of 1934 ("the Act").

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association believes that the proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subpargraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 522 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 28, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 31, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-18702 Filed 8-6-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23777; 70-7125]

The Southern Co. Notice of Proposal To Issue and Sell Common Stock Pursuant to Dividend Reinvestment and Stock Purchase Plan and Employee Savings Plan

July 31, 1985.

The Southern Company ("Southern"), 64 Perimeter Center East, Atlanta, Georgia 30346, a registered holding company, has filed a declaration with this Commission pursuant to section 6(a) and 7 of the Public Utility Holding Company Act of 1935 and Rule 50(a)(5) thereunder.

Southern proposes to issue and sell from time to time, through April 30, 1987, a maximum of 20,000,000 shares of its authorized but unissued common stock, par value $5 per share ("Additional Common Stock"), in addition to the balance of 8,336,338 shares of the Dividend Reinvestment and Stock Purchase Plan ("Dividend Plan"), previously approved by the Commission (HCAR No. 23452, October 16, 1984). Southern proposes to apply the proceeds from the sale of the Additional Common Stock to equity investments in its operating subsidiaries as well as for other corporate purposes.

The Additional Common Stock will be offered to all holders of Southern's common stock pursuant to the Dividend Plan whereby they may voluntarily elect to have all or less than all of their cash dividends on their shares of Southern common stock automatically reinvested

in shares of such common stock at a price equal to 95% of the average of the daily high and low sales prices of Southern's common stock for the period of five trading days ending on the dividend payment date. Additionally a shareholder may make optional cash payments (not less than $25 per payment nor more than a total of $6,000 per quarter) to invest in shares of Southern's common stock at a price equal to 100% of such market price average for the period of five trading days ending on the monthly purchase date or continue to receive cash dividends on all shares held by them and only make optional cash payments for investment. Cash dividends on shares credited to a participant's account under the Dividend Plan will be reinvested in shares of Southern's common stock. No shares will be sold under the Dividend Plan at less than the par value of such shares. Optional cash payments will be invested monthly.

The First National Bank of Atlanta currently administers the Dividend Plan and purchases the shares of Southern's common stock as agent for the participants. However, a proposal is pending before the Commission to transfer the administration of the Dividend Plan to Southern Company Services, Inc., the system service company for Southern (HCAR No. 23774, July 30, 1985). No service charge or commission is paid by participants in connection with purchases under the Dividend Plan. Southern reserves the right to suspend, modify or terminate the Dividend Plan at any time, or to eliminate the 5% discount from market price average at which cash dividends are reinvested. Southern also may determine to provide for the purchase of shares, on the open market in addition to purchases directly from Southern.

Additionally, Southern proposes to issue and sell a maximum of 3,000,000 shares through April 30, 1987, of authorized but unissued common stock, par value $5 ("New Stock"), plus the balance of 903,431 shares remaining in the Employee Savings Plan for The Southern Company System ("Savings Plan") granted authority by the Commission in HCAR No. 23452. The proceeds from the sale will be applied to equity investments in its operating subsidiaries and other corporate purposes.

The New Stock will be offered to employees of Southern's subsidiaries pursuant to the Savings Plan under which such employees voluntarily may contribute, after being paid, any whole percentage not more than 16% of their compensation ("Voluntary Participant Contribution"). In addition, a Savings Plan member may elect to have his compensation reduced, and therefor his taxable income reduced, by a whole percentage which is not more than 16% of his compensation, such amount to be contributed to his account under the Savings Plan ("Elective Employer Contribution"). The maximum Voluntary Participant Contribution shall be reduced by the percent, which is contributed as an Elective Employer Contribution by the employer on behalf of the Savings Plan member.

Each Savings Plan member must direct that his contributions be invested in one or more of the following funds: (1) Company Stock Fund—consisting of Southern's common stock; (2) Equity Fund—consisting of common or capital stocks and securities convertible into common or captial stock and (3) Fixed Income Fund—consisting of direct obligations of the U.S. Government, corporate bonds, debentures, notes of indebtedness, savings account deposits, and trust funds. All employer matching contributions are invested in the Company Stock Fund.

The Board of Directors of Southern Company Services, Inc. has the right to amend to terminate the Savings Plan in whole or in part. Any employing company may, by action of its board of directors and approval by the Board of Directors of Southern Company Services, Inc., suspend or terminate the making of contributions by members in the employ of such company and contributions by such employing company. In the event of termination or partial termination or upon complete discontinuance of contributions under the Savings Plan by all employing companies or by any one employing company, the amount to the credit of the accounts of each member whose employing company shall be affected by such termination or discontinuance shall become non-forfeitable and generally will be distributed to the member as soon as practicable after such termination of discontinuance.

Investment purchases by the Trustee for the funds may be made either on the open market or by private purchase, provided that no private purchase may be made of common stock of Southern at a price greater than the last sale price or current independent bid price, whichever is higher, for such stock on the New York Stock Exchange, plus an amount equal to the commission payable in a stock exchange transaction if such private purchase is made from Southern. The Trustee may purchase common stock of Southern directly from Southern under the Dividend Plan or under any other similar plan made available to all holders of record or shares of common stock of Southern, at the purchase price provided for in such plan.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 23, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-18699 Filed 8-6-85; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Incorporated

August 1, 1985.

The above named national securities exchange has filed application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securites:

Greenman Brothers, Inc.
Common Stock, $0.10 Par Value (File No. 7-8523)

Federal Signal Corporation
Common Stock, $100 Par Value (File No. 7-8524)

Gould, Inc.
Common Stock, $4.00 Par Value (File No. 7-8525)

Payless Cashways, Inc.
Common Stock, $0.50 Par Value (File No. 7-8526)

Big Three Industries
Common Stock, $2.50 Par Value (File No. 7-8527)

Augat, Inc.

Common Stock, $0.10 Par Value (File No. 7–8528)
National Convenience Stores, Inc.
Common Stock, $0.41–2/3 Par Value (File No. 7–8529)
Permian Basin Royalty Trust
Common Stock, No Par Value (File No. 7–8530)
Hershey Foods Corporation
Common Stock, No Par Value (File No. 7–8531)
Sheller-Globe Corporation
Common Stock, No Par Value (File No. 7–8532)
Rohm & Haas Corporation
Common Stock, $2.50 Par Value (File No. 7–8533)
Hazleton Labs
Common Stock, $0.10 Par Value (File No. 7–8534)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 22, 1985, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should filed three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–18701 Filed 8–6–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–23778; 70–7120]

Metropolitan Edison Co.; Notice of Proposal To Finance Pollution Control Facilities

July 31, 1985.

Metropolitan Edison Company, ("Met-Ed"), 2800 Pottsville Pike, Muhlenberg Township, Pennsylvania 19605, a subsidiary of General Public Utilities ("GPU"), a registered holding company, has filed an application-declaration with this Commission pursuant to sections 6(a), 7, 9(a) and 10 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 44 and 50(a)(5) thereunder.

Met-Ed proposes to issue an aggregate of up to $35,000,000 principal amount of its first mortgage bonds ("New Bonds") to the Northhampton County Industrial Development Authority ("Authority"). The New Bonds will be delivered to the Authority in satisfaction of Met-Ed's obligation to pay the purchase price of certain pollution control facilities ("Facilities") presently being constructed in connection with the Portland electric generating station. The interest rate, the maturity date, and the redemption or prepayment provisions will correspond to the interest rate, the maturity date, and the redemption or prepayment provisions with respect to pollution control revenue bonds ("Authority Bonds") to be issued by the Authority. The proceeds from the Authority Bonds will finance the Facilities.

The Authority Bonds will have a term of 30 years but will be subject to earlier redemption, retirement, or repurchase upon the occurrence of certain events. The Authority Bonds will be subject to optional redemption by the Authority, at the direction of Met-Ed, in whole or in part beginning in 1995.

It is estimated that the aggregate cost of the Facilities will be approximately $31,000,000. The maximum principal amount of the Authority Bonds is estimated to approximate this cost together with the fees, commissions and expenses associated with underwriting the sale of the Authority Bonds. The Authority Bonds will be issued pursuant to a Pollution Control Facilities Agreement ("Agreement") and under a trust indenture ("Indenture") between the Authority and the Hamilton Bank, and will be sold by Merrill Lynch, Pierce, Fenner & Smith, at such interest rates and for such prices as may be approved by Met-Ed. The principal and interest on the Authority Bonds will be payable solely from payments made by Met-Ed on the New Bonds and the credit of the Authority will not be pledged.

Met-Ed requests an exception from Rule 50 pursuant to subsection (a)(5) thereof with respect to the New Bonds, as their terms will be established by those of the Authority Bonds and therefore, a competitive bidding for the New Bonds would be inappropriate and not in the public interest.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 26, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–18700 Filed 8–6–85; 8:45 am]

BILLING CODE 8010–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences; Notice of Public Hearings

On February 14, 1985 (50 FR 6294) the Trade Policy Staff Committee announced the initiation of a general review of the U.S. Generalized System of Preferences (GSP), as described in section 504(c)(2) of the Trade and Tariff Act of 1984 (the Act). Purusant to that review, notice is hereby given of: (1) Public hearings concerning specific beneficiary country products and their competitiveness, use of the President's authority to waive competitive need limits, and the existence of U.S. production of like or directly competitive articles and (2) the acceptance for review of requests for waiver of competitive need limits.

I. Public Hearings

1. Deadline for Receipt of Requests to Participate in the Public Hearings

As part of the ongoing General Review of the GSP Program, the GSP Subcommittee of the Trade Policy Staff Committee will hold public hearings on October 21–25, 1985 concerning: (a) Specific beneficiary products and their competitiveness; (b) use of the President's authority to waive competitive need limits; and (c) determinations regarding the existence of U.S. production of like or directly competitive articles. Interested parties, including representatives of beneficiary countries, are invited to submit testimony or written comments.

Requests to present oral testimony in connection with these public hearings

should be accompanied by twenty copies, in English, of all written briefs or statements and should be received by the Chairman of the GSP Subcommittee no later than the close of business October 1, 1985. All requests should include a description (including TSUS number) of the product or products of concern, and, where appropriate, the country of concern. Given limited availability of time, requests to testify (submitted with the necessary documentation described above) will be accepted on a first come, first served basis.

The principal purpose of these hearings is to provide the GSP Subcommittee with an opportunity to seek additional information and clarify questions concerning written submissions. Therefore, oral testimony before the GSP Subcommittee will be limited to 5 minute presentations that summarize or supplement information contained in briefs or statements submitted for the record. In the case of parties testifying regarding more than one product, requests for additional time will be considered to the extent possible. In such cases, the maximum time permitted for any presentation will be 15 minutes.

Post-hearing briefs or statements will be accepted if submitted in twenty copies, in English, no later than close of business November 15, 1985. Parties not wishing to appear at the public hearings may submit written briefs or statements in twenty copies, in English, provided that such submissions are received by November 15, 1985. Rebuttal briefs will be accepted if submitted in twenty copies, in English, by close of business December 15, 1985.

The hearing will be held on October 21–25 beginning at 10:00 a.m. in Washington, D.C. in the Amphitheater of the Federal Home Loan Bank Board, 1700 G Street, N.W. Parties requesting to testify will be notified by October 14 of the date and estimated time of their appearance before the GSP Subcommittee. The hearing will be open to the public and the transcript will be made available for public inspection or purchase from the reporting company.

2. Comments

The General Review is being conducted pursuant to section 504(c)(2)(A) of Title V of the Trade Act of 1974, as amended (the Act). As part of the General Review, these hearings will cover three areas:

A. *Sufficient Competitiveness.* Comments for this aspect of the review should be keyed to the competitiveness of specific products from specific beneficiary countries. They should include: (1) A detailed description of the product or products of concern, including TSUS number; (2) identification of the country or countries of concern; and (3) product and country specific information concerning competitiveness.

The Act directs the President to conduct a general review of GSP-eligible articles to determine whether beneficiary countries have demonstrated a sufficient degree of competitiveness. In determining whether a country has exhibited a sufficient degree of competitiveness in respect to a product, the President must take into account the general level of development of the beneficiary country, its competitiveness in respect to the product and the practices of the country as specified in section 502(c) (4) through (7) of the Act.

Hearings regarding country practices were held on June 24 and 25, 1985 and written submissions were accepted through July 15. Rebuttal submissions are being accepted through August 15 (50 FR 19513).

For those products for which a beneficiary is determined to have demonstrated a sufficient degree of competitiveness, the GSP's competitive need limits will be lowered, effective July 1, 1987. Any such changes will be announced by January 4, 1987. It is important to note that the President is to examine separately each individual article from each beneficiary country.

B. Waiver of Competitive Need Limits. Section II of this notice announces the list of requests for waiver of competitive need limits that have been accepted for review.

Comments for this aspect of the review should be keyed to the factors in sections 501 and 502(c) of the Act as they relate to specific requests for competitive need waivers noted in section II. The specific case number or numbers of concern should be clearly identified in the comments and request to testify. The announcement in section II of requests accepted for review indicates the beneficiary developing countries specified in the requests. However, the Trade Policy Staff Committee (TPSC) reserves the right to consider, in respect of each case, the waiver of competitive need limits for any or all beneficiary countries. Therefore, comments should be keyed to any or all beneficiary countries of concern.

Under section 504(c)(3) of the Act, the President may waive the competitive need limits applicable to a particular GSP-eligible article from a particular beneficiary beginning in 1987. As part of the general review, requests for exercise of this authority were accepted through May 31, 1985.

Before exercising this competitive need waiver authority in respect to a particular product of a beneficiary country, the President is required to take into account the factors listed in sections 501 and 502(c) of the Act. These factors include: (1) the anticipated impact of such action on U.S. producers of like or directly competitive products; (2) the general level of development of the beneficiary country; (3) its competitiveness in respect to the product; and (4) the practices of the country as specified in section 502(c) (4) and (7) of the Act. In regard to country practices, "great weight" must be given to:

—The extent to which the beneficiary country has assured the United States that it will provide equitable and reasonable access to its markets and basic commodity resources; and

—The extent to which the beneficiary provides adequate and effective means under its law for foreign nationals to secure, exercise and enforce exclusive rights in intellectual property, including patent, trademark and copyright rights.

The President must also seek and take into account advice by the U.S. International Trade Commission (U.S. ITC) on whether any industry in the United States is likely to be affected adversely by the waiver of competitive need limits for a particular product.

All comments on country practices received during the hearings and comment period described in section A above will be taken into consideration in this aspect of the review and need not be resubmitted.

Those requests for competitive need waivers which are granted will be announced no later than January 4, 1987 and will take effect on July 1, 1987.

C. Determinations Regarding Like or Directly Competitive Articles. Comments on this aspect of the review should be keyed to the existence or non-existence of U.S. production of a like or directly competitive article on January 3, 1985. A description of the product, including TSUS number, should be included in the comments.

Under the GSP's original statutory authorization in section 504(d) of the Act, the President could not apply the 50-percent competitive need limit with respect to any article for which he determined there was no production in the United States of a product like or

directly competitive with the GSP article on January 3, 1975.[1]

The new Act has extended section 504(d) but the relevant date for determining the existence of like or directly competitive production has been changed to January 3, 1985. During the course of the General Review, section 504(d) determinations will be made with respect to each GSP-eligible article (at the 5-digit level of the Tariff Schedules of the United States) on the basis of the revised date. Any modification made as a result of this aspect of the review will be announced no later than January 4, 1987 and will take effect on July 1, 1987.

D. U.S. ITC Advice. At the direction of the President, the Trade Representative has requested that the U.S. International Trade Commission provide advice and information relating to competitiveness and 504(d) determinations. The Trade Representative will also request advice from the U.S. ITC concerning whether any industry in the United States is likely to be affected adversely by the waiver of competitive need limits in respect of the products listed in section II.

E. Further Information. For further information about the General Review, see the notice published on February 14, 1985 (50 FR 6295).

3. Information Subject to Public Inspection

Information submitted in connection with the hearings will be subject to public inspection by appointment with the GSP Information Center, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and 15 CFR 2006.10. Parties submitting briefs or statements containing confidential information must indicate clearly on the cover page of each of the twenty copies submitted and on each page within the document, where appropriate, that confidential material is included. Non-confidential summaries of all confidential material must be submitted in twenty copies, in English, at the same time that confidential submissions are filed.

4. Communications

All communications with respect to this notice should be addressed to the Executive Director, Generalized System of Preferences, Office of the United States Trade Representative, Room 316, 600 17th Street NW., Washington, D.C. 20506. Questions may be directed to any member of the GSP Information Center at (202) 395–6971.

II. Acceptance for Review of Requests for Competitive Need Waivers

Notice is hereby given of acceptance for review of requests for waiver of competitive need limits under the U.S. Generalized System of Preferences, as provided for in Title V of the Trade Act of 1974, as amended. These requests have been accepted in connection with the General Review of the GSP program as described above.

Donald M. Phillips,

Chairman, Trade Policy Staff Committee.

BILLING CODE 3190-01-M

[1] This provision does not apply to the competitive need limit based on a specific dollar value.

Requests for Competitive-Need Waiver Accepted for Review

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		[The bracketed language in this list has been included only to clarify the scope of the numbered items which are being considered, and such language is not itself intended to describe articles which are under consideration.]	
		Beef and veal, prepared or preserved (except sausages):	
		Beef in airtight containers:	
GR-W-1	107.48 (Argentina, Brazil, Uruguay)	Corned beef	Canned and Cooked Meat Importers Association, Washington, D.C.
		Fish, dried, whether or not whole, but not otherwise prepared or preserved, and not in airtight containers:	
GR-W-2	111.15 (Peru)	Shark fins	Government of Peru
		Fish, prepared or preserved in any manner, not in oil, in airtight containers:	
		Sardines:	
		In containers weighing with their contents not over 15 pounds each:	
		[In immediate containers weighing with their contents under 8 ounces each]	
		Other:	
GR-W-3	112.21 (Peru)	In tomato sauce	Id.
		Shellfish, fresh, chilled, frozen, prepared or preserved (including pastes and sauces):	
		Clams:	
		In airtight containers:	
		[Razor clams (Siliqua patula)]	
		Other:	
GR-W-4	114.04 (Malaysia, Thailand)	Boiled clams, whether whole, minced, or chopped, and whether or not salted, but not otherwise prepared or preserved, in immediate containers the contents of which do not exceed 24 ounces gross weight	Government of Malaysia, Government of Thailand

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified in the request. However, the Trade Policy Staff Committee (TPSC), reserves the right to consider, in respect of each case, the waiver of competitive-need limits for any or all beneficiary countries.

Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		Leather, in the rough, partly finished, or finished:	
		[Chamois; patent; upholstery leather]	
		Other:	
		[Calf and kip; pig and hog]	
		Other:	
		Not fancy:	
		[Vegetable-tanned goat and sheep, in the rough]	
GR-W-5	121.55 (India)	Buffalo	Florsheim Shoe Company, Chicago, IL
		[Reptilian]	
		Other:	
GR-W-6	121.62 (India)	Goat and kid	do.
		Milled grain products:	
		Fit for human consumption:	
		Rice:	
GR-W-7	131.35 (Thailand)	Meal and flour	Government of Thailand
		Vegetables, fresh, chilled, or frozen (but not reduced in size nor otherwise prepared or preserved):	
		[Asparagus]	
		Beans:	
		Lima beans:	
GR-W-8	135.14 (Mexico)	If entered during the period from December 1 in any year to the following May 31, inclusive	Government of Mexico
		[Articles provided for in items 135.15 thru 136.70]	
GR-W-9	136.80 (Mexico)	Okra	do.
		[Onions]	
		Peas:	
		[If entered during the period from July 1 to September 30, inclusive, in any year]	
		Other:	
		[Pigeon peas]	
GR-W-10	137.04 (Mexico)	Other	do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified in the request. However, the Trade Policy Staff Committee (TPSC), reserves the right to consider, in respect of each case, the waiver of competitive-need limits for any or all beneficiary countries.

Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Vegetables, fresh, chilled, or frozen, etc. (con.):	
		[Articles provided for in items 137.10 thru 137.66]	
		Other:	
GR-W-11	137.79 (Mexico)	Jicamas, fresh or chilled	Government of Mexico
		Yams and sweet potatoes:	
GR-W-12	137.88 (Colombia)	Yams, fresh or chilled	Government of Colombia
		Vegetables, dried, desiccated, or dehydrated, whether or not reduced in size or reduced to flour (but not otherwise prepared or preserved):	
		Dried, desiccated, or dehydrated:	
		Beans:	
		If entered for consumption outside the above-stated period, or if withdrawn for consumption at any time:	
GR-W-13	140.14 (Thailand)	Mung	Government of Thailand
		Chickpeas or garbanzos:	
		[Split]	
GR-W-14	140.21 (Mexico)	Other	Government of Mexico
		Vegetables (whether or not reduced in size), packed in salt, in brine, pickled, or otherwise prepared or preserved (except vegetables in subpart B of part 8 of schedule 1 of the Tariff Schedules of the United States):	
		[Articles provided for in items 141.05 thru 141.70]	
		Other:	
		Packed in salt, in brine, or pickled:	
		[Artichokes]	
GR-W-15	141.77 (Mexico)	Other	do.
		Bananas, fresh, or prepared or preserved:	
		[Fresh; dried]	
GR-W-16	146.44 (Philippines)	Otherwise prepared or prepared	Government of the Philippines

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified in the request. However, the Trade Policy Staff Committee (TPSC), reserves the right to consider, in respect of each case, the waiver of competitive-need limits for any or all beneficiary countries.

Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Citrus fruits, fresh, or prepared or preserved:	
		[Citrons; grapefruit; lemons; limes; oranges]	
		Other citrus fruits:	
GR-W-17	147.36 (Thailand)	Prepared or preserved	Government of Thailand
		Figs, fresh, or prepared or preserved:	
		[Fresh or in brine; dried]	
GR-W-18	147.54 (Colombia)	Otherwise prepared or preserved	Government of Colombia
		Mangoes, fresh, or prepared or preserved:	
		Fresh:	
GR-W-19	148.03 (Mexico)	If entered during the period from September 1, in any year, to the following May 31, inclusive	Government of Mexico
		Melons, fresh, or prepared or preserved:	
		Fresh:	
		Cantaloupes:	
		[If entered during the period from August 1 to September 15, inclusive, in any year]	
GR-W-20	148.12 (Mexico)	If entered during the period from December 1, in any year, to the following March 31, inclusive	Government of Mexico
GR-W-21	148.17 (Mexico)	If entered at any other time	do.
		Watermelons:	
GR-W-22	148.25 (Mexico)	If entered during the period from December 1, in any year, to the following March 31, inclusive	do.
		Other fruits, fresh, or prepared or preserved:	
		[Chinese gooseberries (Actinidia Chinensis Planch.), fresh]	
GR-W-23	149.50 (Mexico)	Other fruits, fresh	do.
GR-W-24	149.60 (Thailand)	Prepared or preserved	Government of Thailand
		Fruit pastes and fruit pulps:	
GR-W-25	152.60 (Mexico)	Tamarind	Government of Mexico

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified in the request. However, the Trade Policy Staff Committee (TPSC), reserves the right to consider, in respect of each case, the waiver of competitive-need limits for any or all beneficiary countries.

Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
GR-W-26	155.20 (Colombia, Peru, Philippines	Sugars, sirups, and molasses, derived from sugar cane or sugar beets: Principally of crystalline structure or in dry amorphous form	Government of Colombia, Government of Peru, Government of the Philippines
GR-W-27	167.50 (Mexico)	Other fermented alcoholic beverages	Formex Ybarra, S.A., Mexico, Government of Mexico
GR-W-28	169.32 (Mexico)	Tequila: In containers each holding over 1 gallon	Government of Mexico
GR-W-29	169.42 (Mexico)	Other spirits, and preparations in chief value of distilled spirits, fit for use as beverages or for beverage purposes: Spirits: In containers each holding not over 1 gallon: Mescal	do.
GR-W-30	177.40 (Thailand)	Marine animal oils: [Fish-liver oils; fish oils other than liver oils] Other marine-animal oils: [Seal; sperms; whale] Other	Government of Thailand
GR-W-31	192.17 (Colombia, Peru)	Cut flowers, fresh; bouquets, wreaths, sprays, or similar articles made from such flowers or other fresh plant parts: Miniature (spray) carnations	Government of Colombia, Government of Peru
GR-W-32	192.85 (Mexico)	Straws and other fibrous vegetable substances not specially provided for, crude or processed: [Broom corn; flax straw; istle; rice straw and rice fiber] Other: Processed	Government of Mexico

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified in the request. However, the Trade Policy Staff Committee (TPSC), reserves the right to consider, in respect of each case, the waiver of competitive-need limits for any or all beneficiary countries.

Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ item No. 2/	Article	Petitioner
		Wood moldings, and wood carvings and ornaments suitable for architectural or furniture decoration, whether or not drilled or treated:	
		Standard wood moldings, not drilled or treated:	
GR-W-33	202.62 (Mexico)	Pine (Pinus spp.)	Government of Mexico
		Jewelry boxes, silverware chests, cigar and cigarette boxes, microscope cases, tool or utensil cases, and similar boxes, cases, and chests, all the foregoing of wood:	
		[Cigar and cigarette boxes]	
		Other:	
GR-W-34	204.40 (Taiwan)	Not lined with textile fabrics	Taiwan Board of Foreign Trade
GR-W-35	206.60 (Mexico, Taiwan)	Picture and mirror frames, of wood	Government of Mexico, Hallmark Cards, Inc., Kansas City, MO, Hy-Jo Picture Frames, El Cajun, CA
		Household utensils and parts thereof, all the foregoing not specially provided for, of wood:	
		[Of mahogany (Swietenia spp. or Khaya spp.)]	
		Other:	
		[Coat and garment hangers]	
GR-W-36	206.98 (Taiwan)	Other	Taiwan Board of Foreign Trade
GR-W-37	207.00 (Taiwan)	Articles not specially provided for, of wood	Russ Berrie & Co., Inc., Oakland, NJ Taiwan Board of Foreign Trade
		Baskets and bags, of unspun fibrous vegetable materials, whether lined or not lined:	
		[Of bamboo; of willow]	
GR-W-38	222.42 (Philippines)	Of rattan or of palm leaf	Government of the Philippines
GR-W-39	222.44 (Philippines)	Other	do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified in the request. However, the Trade Policy Staff Committee (TPSC), reserves the right to consider, in respect of each case, the waiver of competitive-need limits for any or all beneficiary countries.

Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Articles not specially provided for, of unspun fibrous vegetable materials:	
		[Of one or more of the materials, bamboo, rattan, willow, or chip; of raffia]	
GR-W-40	222.64 (Philippines)	Other	Government of the Philippines
		Plywood, whether or not face finished:	
		Not face finished, or face finished with a clear or transparent material which does not obscure the grain, texture, or markings of the face ply:	
		[Articles provided for in items 240.10 thru 240.19]	
		Other:	
GR-W-41	240.21 (Mexico)	With a face ply of softwood	Asociacion Nacional de Fabricantes de Tableros de Madera, Mexico, Government of Mexico
		Wood-veneer panels, whether or not face finished:	
		With veneer faces on both sides:	
		Not face finished, or face finished with a clear or transparent material which does not obscure the grain, texture, or markings of the face ply:	
		[Articles provided for in items 240.30 thru 240.36]	
GR-W-42	240.38 (Philippines)	Other	Government of the Philippines
		With veneer face on one side only:	
		Not face finished, or face finished with a clear or transparent material which does not obscure the grain, texture, or markings of the face ply:	
GR-W-43	240.50 (Peru)	With face ply of Spanish cedar (Cedrela spp.)	Government of Peru
GR-W-44	251.20 (Mexico)	Stereotype-matrix board or mat	Government of Mexico
		Papers, not impregnated, not coated, not surface-colored, not embossed, not ruled, not lined, not printed, and not decorated:	
		Printing papers:	
		India and bible paper:	
GR-W-45	252.61 (Mexico)	Weighing over 9 but not over 15 pounds per ream	do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified in the request. However, the Trade Policy Staff Committee (TPSC), reserves the right to consider, in respect of each case, the waiver of competitive-need limits for any or all beneficiary countries.

Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Papers, not impregnated, etc. (con.):	
		Stereotype paper:	
GR-W-46	252.73 (Mexico)	Weighing over 9 but not over 18 pounds per ream	Government of Mexico
		Yarns and roving, of vegetable fibers (except cotton):	
		Of jute:	
		Singles:	
GR-W-47	305.20 (Thailand)	Measuring under 720 yards per pound	Government of Thailand
		Plied:	
GR-W-48	305.28 (Thailand)	Measuring under 720 yards per pound	do.
GR-W-49	305.30 (Thailand)	Measuring 720 yards or over per pound	do.
		Cordage:	
		Of vegetable fibers:	
		Of hard (leaf) fibers:	
		Not of stranded construction:	
		[Binder twine and baler twine]	
GR-W-50	315.25 (Mexico)	Other	Cordemex, S.A. de C.V., Mexico, Government of Mexico
		Of jute:	
		Not bleached, not colored, and not treated:	
GR-W-51	315.80 (Thailand)	The singles yarn of which measures under 720 yards per pound	Government of Thailand
GR-W-52	315.85 (Thailand)	The singles yarn of which measures 720 yards or over per pound	do.
		Bleached, colored, or treated:	
GR-W-53	315.90 (Thailand)	The singles yarn of which measures 720 yards per pound	do.
GR-W-54	315.95 (Thailand)	The singles yarn of which measures 720 yards or over per pound	do.
		Woven fabrics of silk:	
		Wholly of silk:	
		Jacquard-figured:	
GR-W-55	337.40 (Republic of Korea)	Degummed, bleached, or colored	Government of Korea, Korea Export Association of Textiles

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified in the request. However, the Trade Policy Staff Committee (TPSC), reserves the right to consider, in respect of each case, the waiver of competitive-need limits for any or all beneficiary countries.

Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Woven or knit fabrics (except pile or tufted fabrics), of textile materials, coated or filled with rubber or plastics material, or laminated with sheet rubber or plastics:	
		Of man-made fibers:	
GR-W-56	355.81 (Colombia)	Over 70 percent by weight of rubber or plastics	Government of Colombia
		Articles not specially provided for, of textile materials:	
		Lace or net articles, whether or not ornamented, and other articles ornamented:	
		[Of cotton; of wool]	
		Other:	
		[Shoe uppers; tents and sleeping bags, of manmade fibers]	
		Other:	
GR-W-57	386.1343 (Taiwan)	Of man-made fibers	Hallmark Cards, Inc., Kansas City, MO
		Other articles, not ornamented:	
		Of man-made fibers:	
		[Knit (except pile or tufted construction; pile or tufted construction)]	
		Other:	
GR-W-58	389.61 (Macau, Taiwan)	Artificial flowers	Government of Macau, Taiwan Board of Foreign Trade
		Cyclic organic chemical products in any physical form having a benzenoid, quinoid, or modified benzenoid structure, not provided for in subpart A or C of part 1 of schedule 4 of the Tariff Schedules of the United States:	
		[Articles provided for in items 402.00 thru 402.08]	
GR-W-59	402.12 (Brazil)	Phthalic anhydride	Occidental Chemical Corporation, Niagara Falls, NY
		[Articles provided for in items 402.16 thru 402.32]	
		Other:	
		Heterocyclic compounds and their derivatives (including lactones and lactams but excluding epoxides with three membered rings, anhydrides and imides of polybasic acids, and cyclic esters of polyhydric alcohols with polybasic acids):	
		[1,2-Dihydro-2,2,4-trimethylquinoline; 2,2'-Dithiobisbenzothiazole]	

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified in the request. However, the Trade Policy Staff Committee (TPSC), reserves the right to consider, in respect of each case, the waiver of competitive-need limits for any or all beneficiary countries.

Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ item No. 2/	Article	Petitioner
		Cyclic organic chemical products, etc. (con.):	
		Other (con.):	
		Heterocyclic compounds, etc. (con.):	
GR-W-60	406.20 (Mexico)	Ethoxyquin (1,2-Dihydro-6-ethoxy-2,2,4-trimethylquinoline	Compania Quimica Ameyal, S.A. de C.V., Mexico Government of Mexico
		[Articles provided for in items 406.24 thru 406.32]	
		Other:	
GR-W-61	406.37 (Mexico)	1,2-Dihydro-2,2,4-trimethyl-quinoline polymer; 2-Mercaptobenzothiazole; and N-(Oxydiethylene)benzothiazole-2-sulfenamide	Compania Quimica Ameyal, S.A. de C.V., Mexico Government of Mexico, Quimica Organica de Mexico, S.A. de C.V.
		Mixtures in whole or in part of any of the products provided for in subpart B of part 1 of schedule 4 of the Tariff Schedules of the United States:	
		[Solvents which contain over 25 percent by weight of any of the products provided for in subpart B of part 1 of Schedule 4 of the Tariff Schedules of the United States]	
		Other:	
		[Mixtures of 1,3,6-Naphthalenetrisulfonic acid and 1,3,7-Naphthalenetrisulfonic acid]	
GR-W-62	407.16 (Mexico)	Other	Government of Mexico, Quimica Organica de Mexico, S.A. de C.V.
		Products obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of part 1 of schedule 4 of the Tariff Schedules of the United States:	
		Pesticides:	
		Not artificially mixed:	
		Herbicides (including plant growth regulators):	
		[Articles provided for in items 408.17 and 408.18]	
		Other:	
GR-W-63	408.19 (Mexico)	Products provided for in the Chemical Appendix to the Tariff Schedules	Government of Mexico, Pigmentos Y Oxidos, Mexico

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified in the request. However, the Trade Policy Staff Committee (TPSC), reserves the right to consider, in respect of each case, the waiver of competitive-need limits for any or all beneficiary countries.

Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Products obtained, derived, or manufactured in whole or in part, etc. (con.):	
		Pesticides (con.):	
		Not artificially mixed (con.):	
		Herbicides, etc. (con.):	
		Other (con.):	
GR-W-64	408.23 (Mexico)	Other	Government of Mexico, Pigmentos Y Oxidos, Mexico
		Insecticides:	
		[Articles provided for in item 408.24]	
		Other:	
GR-W-65	408.28 (Mexico)	Products provided for in the Chemical Appendix to the Tariff Schedules	Government of Mexico, Pigmentos Y Oxidos, Mexico
GR-W-66	408.29 (Mexico)	Other	Government of Mexico, Pigmentos Y Oxidox, Mexico
GR-W-67	409.30 (Mexico)	Products (except those in items 409.22, 409.26 and 409.28) chiefly used for any one or combination of the following purposes: As detergents, wetting agents, emulsifiers, dispersants, or foaming agents	Government of Mexico
GR-W-68	409.34 (Mexico) or	Products chiefly used as plasticizers or [Phthalic acid esters; phosphoric acid esters]	Compania Quimica Ameyal, S.A. de C.V., Mexico
GR-W-69	409.3450 (Mexico)	Other	do., Government of Mexico
		Aromatic or odoriferous compounds including flavors, not marketable as cosmetics, perfumery, or toilet preparations, and not mixed, and not containing alcohol:	
		Obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of part 1 of schedule 4 of the Tariff Schedules of the United States:	
GR-W-70	412.80 (Mexico)	Benzyl acetate	Government of Mexico
		Antimony compounds:	
		[Oxide; sulfide]	
GR-W-71	417.54 (Mexico)	Other	do.

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Copper compounds:	
		[Articles provided for in items 418.69 thru 418.76]	
GR-W-72	418.78 (Mexico)	Other	Chippenham Corporation, N.V., Houston, TX, Cuproquim, S.A., Mexico, Government of Mexico
		Phosphorous compounds	
GR-W-73	419.82 (Mexico)	Trichloride	Government of Mexico, Vitro de Monterrey, Mexico
		Strontium compounds:	
		Carbonate:	
GR-W-74	421.72 (Mexico)	Precipitated	Government of Mexico, Salesy Oxidos, S.A., Mexico
		[Articles provided for in items 421.74 thru 421.84]	
GR-W-75	421.86 (Mexico)	Other	Government of Mexico
		Zinc compounds:	
GR-W-76	422.74 (Mexico)	Hydrosulfite	do.
GR-W-77	422.76 (Mexico)	Sulfate	Government of Mexico, Zinc Nacional, S.A., Mexico
		Nitrogenous compounds:	
		Cyanuric chloride, melamine, and other compounds containing a triazine ring:	
GR-W-78	425.1045 (Mexico)	Products used chiefly as rubber processing chemicals	Compania Quimica Ameyal, S.A. de C.V., Mexico, Government of Mexico, Novaquim S.A. de C.V., Mexico
GR-W-79	425.36 (Mexico)	Thiourea, thiourea dioxide, and other thioamides; thiocarbamates, thiocyanates, thiurams, and isothiocyanates	Government of Mexico, Novaquim S.A. de C.V., Mexico
	or	or	
GR-W-80	425.3640 (Mexico)	Products used chiefly as rubber processing chemicals	Government of Mexico, Novaquim S.A. de C.V., Mexico
		Salts of organic acids:	
		Zinc salts:	
		[Zinc formaldehyde sulfoxylate]	
GR-W-81	427.25 (Mexico)	Other	Government of Mexico

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Esters of monohydric alcohols and organic or inorganic acids (except hydrogen sulfide and hydrogen halide acids):	
GR-W-82	428.68 (Mexico)	Vinyl acetate	Government of Mexico
		Alkaloids and their esters, ethers, salts, and other compounds:	
		Caffeine and its compounds:	
GR-W-83	437.04 (Mexico)	Caffeine, citrated	do.
		Edible gelatin:	
GR-W-84	455.18 (Colombia)	Valued 40 or more but not over 80 cents per pound	Government of Colombia
GR-W-85	455.20 (Colombia)	Valued over 80 cents per pound	do.
		Fatty substances of animal (including marine animal) or vegetable origin:	
		Sulfonated or sulfated:	
		Fatty-acid esters, ethers, amides, and amines:	
GR-W-86	465.55 (Malaysia)	Derived from coconut, palm-kernel, or palm oil	Government of Malaysia
		Products of vegetable origin used chiefly for coloring or tanning, not specially provided for:	
		[Crude or processed]	
GR-W-87	470.85 (Mexico)	Other	Government of Mexico, Laboratorios Bioquimex, S.A., Mexico
		Barium sulfate:	
		Natural (barytes):	
GR-W-88	472.10 (Peru)	Crude	Government of Peru

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Pigments (except pigments, in dry form, described in the foregoing provisions of subpart B of part 9 of schedule 4 of the Tariff Schedules of the United States: [Articles provided for in items 473.02 thru 473.80] Other pigments: [Articles provided for in items 473.82 thru 473.86] Not specially provided for: Not containing lead: Metallic aluminum pigments	
GR-W-89	473.8810 (Mexico)		Government of Mexico
GR-W-90	474.50 (Mexico)	Stains	do.
		Fatty substances, not sulfonated or sulfated, and not specially provided for: Fatty acids: Of animal (including marine animal) origin:	
GR-W-91	490.12 (Malaysia)	Stearic acid	Government of Malaysia
		Of vegetable origin:	
GR-W-92	490.24 (Malaysia, Philippines)	Derived from coconut, palm-kernel, or palm oil	Government of Malaysia, Government of the Philippines
		Articles, including terrazzo, of concrete, with or without reinforcement: Tiles:	
GR-W-93	511.31 (Mexico)	Floor and wall tiles	Government of Mexico
		Marble, breccia, and onyx, and articles of one or more of these substances:	
GR-W-94	514.54 (Mexico)	Onyx, in block, rough or squared only	do.
GR-W-95	521.87 (Mexico)	Any of the foregoing clays artificially activated with acid or other material	do.
		Fluorspar:	
GR-W-96	522.21 (Mexico)	Containing over 97% by weight of calcium fluoride	Compania Minera Las Cuevas S.A., Mexico

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/2/ item No.	Article	Petitioner
		Shaped refractory and heat-insulating articles not specially provided for, and structures of refractory or heat-insulating articles:	
		[Pins, spurs, stilts, and thimbles, all the foregoing used in the manufacture of ceramic articles]	
GR-W-97	531.33 (Mexico)	Carbon or graphite crucibles	Ferro Mexicana S.A. de C.V., Mexico Government of Mexico
		[Earthenware and stoneware crucibles; porcelain and subporcelain refractory articles]	
		Other:	
		[Clay]	
GR-W-98	531.3920 (Mexico)	Other	Government of Mexico
		Ceramic tiles:	
		Floor and wall tiles:	
		Mosaic tiles:	
		[Tiles in bulk (not mounted); and tiles in sheets having per square foot not over 300 tiles, most of which have faces bounded entirely by straight lines]	
GR-W-99	532.22 (Mexico)	Other	Ceramica Regiomontana, Mexico
GR-W-100	532.31 (Mexico)	Other tiles, including roofing tiles	Ceramica Regiomontana, Mexico, Government of Mexico
		Smokers' articles, household articles, and art and ornamental articles such as, but not limited to, statues, figurines, flowers, vases, lamp bases, bric-a-brac, and wall plaques, all the foregoing not specially provided for, of ceramic ware:	
		Of fine-grained earthenware or of fine-grained stoneware (except articles provided for in items 534.74 and 534.76):	
GR-W-101	534.81 (Taiwan)	Valued not over $3 per dozen articles	K-Mart Corporation, Troy, MI
GR-W-102	534.84 (Taiwan)	Valued over $3 but not over $10 per dozen articles	Hallmark Cards, Inc., Kansas City, MO, Taiwan Board of Foreign Trade
GR-W-103	534.87 (Taiwan)	Valued over $10 per dozen articles	Hallmark Cards, Inc., Kansas City, MO
GR-W-104	534.91 (Taiwan)	Of bone chinaware	Taiwan Board of Foreign Trade

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Smokers' articles, household articles, etc. (con.):	
GR-W-105	534.94 (Taiwan)	Of nonbone chinaware or of subporcelain	K-Mart Corporation, Troy, MI, Taiwan Board of Foreign Trade
GR-W-106	535.31 (Mexico)	Sanitary ware, including plumbing fixtures and bathroom accessories, all the foregoing, and parts thereof, of ceramic ware	Government of Mexico, Vitromex and Santitarious Azteca (Lamosa), Mexico
		Enamels, colors, glazes, and fluxes, all the foregoing of glass, frit, or calcine:	
GR-W-107	540.21 (Mexico)	Ground or pulverized	Government of Mexico, Gustavo A. Madero-Pigmentos Y Oxidos, S.A., Mexico, Productos Industriales de Plumo, S.A., Mexico
		Glass rods, tubes, and tubing, all the foregoing not processed:	
		[Containing over 95 percent silica by weight]	
GR-W-108	540.43 (Mexico)	Other	Vitro Envases, Mexico
GR-W-109	544.31 (Mexico)	Toughened (specially tempered) glass, made of any of the glass described in items 541.11 through 544.18, whether or not shaped or framed or both	Cristales Instillables de Mexico, S.A., Mexico, Government of Mexico, Vitro Flex, S.A., Mexico
		Mirrors, made of any of the glass described in items 541.11 through 544.41, with or without frames or cases (except framed or cased mirrors of precious metal, and mirrors designed for use in instruments):	
GR-W-110	544.51 (Hong Kong)	Not over 1 sq. ft. in reflecting area	Ducair Bioessence, Inc., North Bergen, NJ

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Illuminating articles for use in the household or elsewhere in connection with artificial illumination (except candle illumination) in such manner as to pass, reflect, refract, disperse, color, or otherwise affect the light for practical or ornamental purposes; articles which reflect or color artificial light directed on them for use as, or in connection with, signs or signals; and parts of any of the foregoing articles; any of the foregoing, of glass, and not optically worked:	
GR-W-111	545.53 (Mexico)	Globes and shades	Government of Mexico, Vitro Crisa, S.A., Mexico, Vitro de Monterrey, Mexico
GR-W-112	545.65 (Mexico)	Chimneys	Government of Mexico, Vitro Crisa, S.A., Mexico
		Christmas ornaments of glass: [Beads] Other:	
GR-W-113	545.87 (Taiwan)	Valued over $7.50 per gross	Taiwan Board of Foreign Trade
GR-W-114	547.51 (Mexico)	Glass ampoules	Vitro Envases, Mexico
		Articles not specially provided for, of glass: Tubes and tubing with ends processed: [Containing over 95 percent silica by weight]	
GR-W-115	548.03 (Mexico)	Other	do.
		Metal bearing ores and the dross or residuum from burnt pyrites:	
GR-W-116	601.33 (Mexico)	Molybdenum ore	Government of Mexico
		Any of the foregoing ores bearing lead, zinc, or copper:	
GR-W-117	602.10 (Peru)	All lead-bearing ores	Government of Peru
GR-W-118	602.20 (Peru)	All zinc-bearing ores	do.
GR-W-119	618.15 (Venezuela)	Wrought rods of aluminum	Almor, Ltd., Atlanta, GA
		Aluminum wire:	
GR-W-120	618.22 (Mexico)	Coated or plated with metal	Government of Mexico

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
GR-W-121	622.25 (Malaysia)	Bars, rods, angles, shapes, and sections, all the foregoing which are wrought, of tin	Government of Malaysia
GR-W-122	624.02 (Mexico)	Unwrought lead: Lead bullion	Government of Mexico
GR-W-123	624.34 (Mexico)	Bars, rods, angles, shapes, and sections, all the foregoing which are wrought, of lead; lead wire: [Glazier's lead and lead wire] Other: Valued over 13-1/3 cents per pound	do.
GR-W-124	632.66 (Mexico)	Other base metals, unwrought, and waste and scrap of such metals: Alloys of base metals: Alloys of bismuth: [Containing by weight not less than 30 percent of lead] Other	do.
GR-W-125	640.25 (Mexico)	Drums, flasks, casks, cans, boxes, lift vans, and other containers (except pressure containers in items 640.05 and 640.10 and collapsible tubes in item 640.40), all the foregoing, of base metal, chiefly used in the packing, transporting, or marketing of goods: Of aluminum and having a capacity of not over 5 gallons	do.
GR-W-126	642.45 (Mexico)	Cloth, gauze, fabric, screen, netting, and fencing, all the foregoing not specially provided for, of wire, whether in rolls, in endless bands, or in lengths, and whether or not cut to shape: Not cut to shape: Woven (but of other than simple warp and weft construction) and composed wholly or in substantial part of wire measuring under 0.075 inch in maximum cross-sectional dimension: Coated with metal before weaving	Deacero, S.A., Mexico, Government of Mexico
GR-W-127	642.8020 (Mexico)	[Woven (of simple warp and weft construction)] Other: Of iron or steel: [Welded wire concrete reinforcement mesh] Other	Deacero, S.A., Mexico, Government of Mexico

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/2/ item No.	Article	Petitioner
		Locks and padlocks (whether key, combination, or electrically operated), luggage frames incorporating locks, all the foregoing, and parts thereof, of base metal; lock keys:	
GR-W-128	646.90 (Mexico)	Luggage locks, and parts thereof, and luggage frames incorporating locks	Government of Mexico
		Harness and saddlery or riding-bridle hardware, whether or not coated or plated with precious metal:	
GR-W-129	646.98 (Mexico)	Coated or plated with precious metal	do.
		Pliers, nippers, and pincers, and hinged tools for holding and splicing wire; tin snips, bolt and chain clippers, and other metal cutting shears; pipe cutters and other pipe tools; spanners and wrenches; files (except nail files), and rasps; all the foregoing which are hand tools, and metal parts thereof:	
GR-W-130	648.97 (Taiwan)	Pipe tools (except cutters), wrenches, and spanners, and parts thereof	Taiwan Board of Foreign Trade
		Forks, spoons, and ladles, all the foregoing which are kitchen or table ware, with or without their handles:	
GR-W-131	650.31 (Mexico)	Forks: Without their handles	Government of Mexico
		Hand tools (including table, kitchen, and household implements of the character of hand tools) not specially provided for, and metal parts thereof: [Articles provided for in items 651.21 thru 651.37] Other hand tools, and parts thereof: [Agricultural or horticultural tools, and parts thereof] Other: Of iron or steel: [Cast-iron hatters' irons, and tailors' irons; caulking guns]	
GR-W-132	651.48 (Taiwan)	Other	K-Mart Corporation, Troy, MI

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Photograph, picture, and similar frames; mirrors; all the foregoing of base metal, whether or not coated or plated with precious metal:	
GR-W-133	652.70 (Republic of Korea)	Not coated or plated with precious metal	Government of Korea, Hallmark Cards, Inc., Kansas City, MO, Korea Federation of Handicrafts Cooperative
GR-W-134	652.72 (Republic of Korea)	Coated or plated with precious metal	Government of Korea, Korea Federation of Handicrafts Cooperative
		Springs and leaves for springs, of base metal:	
GR-W-135	652.84 (Mexico)	Suitable for motor-vehicle suspension	Government of Mexico
		Illuminating articles and parts thereof, of base metal:	
		[Articles provided for in item 653.30]	
		Other:	
		[Articles provided for in item 653.35]	
		Other:	
		[Articles provided for in items 653.37 and 653.38]	
GR-W-136	653.39 (Taiwan)	Other	Taiwan Board of Foreign Trade
		Articles of iron or steel, not coated or plated with precious metal:	
		[Cast-iron articles, not alloyed]	
		Other articles:	
		[Of tin plate]	
		Other:	
		[Paper clips]	
GR-W-137	657.25 (Taiwan)	Other	do.
		Articles of copper, not coated or plated with precious metal:	
		[Of copper, other than alloys of copper; of nickel silver or of cupro-nickel]	
GR-W-138	657.35 (Taiwan)	Other	Russ Berrie & Co., Inc., Oakland, NJ

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Internal combustion engines and parts thereof:	
		Piston-type engines:	
		[Articles provided for in item 660.40]	
		Other:	
		Engines other than compression-ignition engines:	
		Specially designed for:	
GR-W-139	660.48 (Mexico)	Automobiles (including trucks and buses)	Government of Mexico
		Air pumps, vacuum pumps and air or gas compressors (including free-piston compressors for gas turbines); fans and blowers; all the foregoing, whether operated by hand or by any kind of power unit, and parts thereof:	
		Fans and blowers, and parts thereof:	
		[Blowers for pipe organs]	
GR-W-140	661.06 (Hong Kong)	Other	Government of Hong Kong
GR-W-141	661.35 (Republic of Korea)	Refrigerators and refrigerating equipment, whether or not electric, and parts thereof	Government of Korea
		Industrial machinery, plant, and similar laboratory equipment, whether or not electrically heated, for the treatment of materials by a process involving a change of temperature, such as heating, cooking, roasting, distilling, rectifying, sterilizing, pasteurizing, steaming, drying, evaporating, vaporizing, condensing, or cooling; instantaneous or storage water heaters, non-electrical; all the foregoing (except agricultural implements, sugar machinery, shoe machinery, and machinery or equipment for the heat-treatment of textile yarns, fabrics, or made-up textile articles) and parts thereof:	
GR-W-142	661.65 (Mexico)	Instantaneous or storage water heaters, and parts thereof	Government of Mexico
		Mechanical appliances, whether or not hand operated, for projecting, dispersing, or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam- or sand-blasting machines and similar jet projecting machines; all the foregoing (except automatic vending machines) and parts thereof:	
GR-W-143	662.35 (Mexico)	Simple piston pump sprays, powder bellows, all the foregoing and parts thereof	do.

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		Sewing machines and parts thereof, including furniture specially designed for such machines: Sewing machines other than those in item 672.05: Valued over $10 each: [Specially designed for industrial or commercial use]	
GR-W-144	672.16 (Taiwan)	Other	Taiwan Board of Foreign Trade
		Machine tools: Metal-working tools: [Articles provided for in items 674.30 thru 674.34]	
GR-W-145	674.35 (Taiwan)	Other	do.
		Calculating machines; accounting machines, cash registers, postage-franking machines, ticket-issuing machines, and similar machines, all the foregoing incorporating a calculating mechanism:	
GR-W-146	676.15 (Hong Kong, Singapore, Taiwan)	Accounting, computing, and other data-processing machines	Government of Hong Kong, Government of Singapore, Taiwan Board of Foreign Trade
GR-W-147	676.20 (Taiwan)	Calculating machines specially constructed for multiplying and dividing	Taiwan Board of Foreign Trade
GR-W-148	676.30 (Singapore)	Office machines not specially provided for	Government of Singapore
		Parts of the foregoing: [Typewriter parts]	
GR-W-149	676.52 (Hong Kong, Republic of Korea, Malaysia, Singapore, Taiwan)	Other	Government of Hong Kong, Government of Korea, Government of Malaysia, Government of Singapore, Taiwan Board of Foreign Trade
GR-W-150	678.50 (Hong Kong, Singapore, Taiwan)	Machines not specially provided for, and parts thereof	Government of Hong Kong, Government of Singapore, Taiwan Board of Foreign Trade

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		Generators, motors, motor-generators, converters (rotary or static), transformers, rectifiers and rectifying apparatus, and inductors; all the foregoing which are electrical goods, and parts thereof:	
		[Transformers]	
		Motors:	
		Of under 1/40 horsepower:	
GR-W-151	682.20 (Hong Kong)	Synchronous, valued not over $4 each	Johnson Electric Industrial Manufactory Limited, Hong Kong
GR-W-152	682.25 (Hong Kong)	Other	do.
GR-W-153	682.30 (Hong Kong)	Of 1/40 or more but not over 1/10 horsepower	do.
GR-W-154	682.35 (Hong Kong, Mexico)	Of over 1/10 but under 1 horsepower	Government of Mexico, Johnson Electric Industrial Manufactory Limited, Hong Kong
		[Commutators; parts of motors of under 1/40 horsepower]	
GR-W-155	682.60 (Hong Kong, Mexico, Singapore)	Other	Government of Hong Kong, Government of Mexico, Government of Singapore
		Storage batteries and parts thereof:	
		Lead-acid type storage batteries, and parts thereof:	
		[12-volt batteries]	
GR-W-156	683.12 (Mexico, Peru)	Other, including parts	Government of Mexico, Government of Peru
	or	or	
GR-W-157	683.1210 (Mexico)	Batteries	El Power, S.A., Mexico
	or	or	
GR-W-158	683.1220 (Mexico)	Parts	Aislantes Leon, S.A., Mexico
GR-W-159	683.15 (Mexico)	Other	Government of Mexico

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Ignition magnetos, magneto-generators, ignition coils, starter motors, spark plugs, glow plugs, and other electrical starting and ignition equipment for internal combustion engines; generators and cut-outs for use in conjunction therewith; all the foregoing and parts thereof:	
		[Battery charging generators and alternators; starter motors; spark plugs; distributor contact (breaker) point sets; ignition coils]	
GR-W-160	683.6090 (Mexico)	Other	Government of Mexico
		Portable electric lamps with self-contained electrical source, and parts thereof:	
		[Flashlights and parts thereof]	
GR-W-161	683.80 (Mexico)	Other	do.
		Electric instantaneous or storage water heaters and immersion heaters; electric soil heating apparatus, and electric space heating apparatus; electric hair dryers, hair curlers, and other electric hair dressing appliances; electric flatirons; electro-thermic kitchen and household appliances; electric heating resistors other than those of carbon; all the foregoing and parts thereof:	
		Flatirons:	
GR-W-162	684.10 (Singapore)	Travel type	Government of Singapore
GR-W-163	684.15 (Singapore)	Other	do.
		[Articles provided for in item 684.20]	
		Other:	
		Cooking stoves and ranges, and parts thereof:	
GR-W-164	684.25 (Republic of Korea, Singapore)	Microwave ovens	Government of Korea, Government of Singapore
		[Articles provided for in items 684.26 thru 684.51]	
		Other parts:	
		[Tubular electrical heating elements]	
GR-W-165	684.55 (Mexico)	Other	Government of Mexico

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Electrical telegraph (including printing and type-writing) and telephone apparatus and instruments, and parts thereof: Telephonic apparatus and instruments and parts thereof:	
GR-W-166	684.57 (Mexico, Taiwan)	Telephone switching apparatus (including private branch exchange and key system switching apparatus), and parts and components thereof	Government of Mexico, Taiwan Board of Foreign Trade
GR-W-167	684.58 (Hong Kong, Mexico, Singapore, Taiwan)	Telephone sets and other terminal equipment and parts thereof	Government of Hong Kong, Government of Mexico, Government of Singapore, Taiwan Board of Foreign Trade
GR-W-168	684.59 (Hong Kong, Mexico, Taiwan)	Other	Government of Hong Kong, Government of Mexico, Taiwan Board of Foreign Trade
GR-W-169	684.70 (Taiwan)	Microphones; loudspeakers; head phones; audio-frequency electric amplifiers; electric sound amplifier sets comprised of the foregoing components; and parts of the foregoing articles (including microphone stands)	Taiwan Board of Foreign Trade

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and television cameras; record players, phonographs, tape recorders, dictation recording and transcribing machines, record changers, and tone arms; all of the foregoing, and any combination thereof, whether or not incorporating clocks or other timing apparatus, and parts thereof:	
		Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and parts thereof:	
		[Television apparatus, and parts thereof]	
		Other:	
		[Radio receivers, other than solid-state (tubeless)]	
		Solid-state (tubeless) radio receivers:	
		[Designed for motor-vehicle installation]	
		Other:	
GR-W-170	685.14 (Malaysia, Singapore, Taiwan)	Entertainment broadcast band receivers	Government of Malaysia, Government of Singapore, Taiwan Board of Foreign Trade
GR-W-171	685.16 (Malaysia)	Other	Government of Malaysia
		Transceivers:	
		[Articles provided for in items 685.18 thru 685.22]	
GR-W-172	685.24 (Malaysia, Mexico)	Other transceivers	Government of Malaysia, Government of Mexico
		Other transmission apparatus incoporating reception apparatus:	
GR-W-173	685.25 (Hong Kong, Malaysia, Taiwan)	Cordless handset telephones	Government of Hong Kong, Government of Malaysia, Taiwan Board of Foreign Trade
GR-W-174	685.28 (Malaysia, Singapore)	Other	Government of Malaysia, Government of Singapore
		Other:	
GR-W-175	685.30 (Malaysia, Mexico)	Transmitters	Government of Malaysia, Government of Mexico

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Radiotelegraphic and radiotelephonic transmission and reception apparatus, etc. (con.): Radiotelegraphic and radiotelephonic transmission and reception apparatus; etc. (con.): Other (con.): Other (con.):	
GR-W-176	685.32 (Hong Kong, Malaysia, Mexico, Singapore, Taiwan)	Other, including parts	Government of Hong Kong, Government of Malaysia, Government of Mexico, Government of Singapore, Taiwan Board of Foreign Trade
		[Radio-phonograph combinations] Record players, phonographs, record changers, turntables, and tone arms, and parts of the foregoing: [Tone arms and parts thereof]	
GR-W-177	685.38 (Republic of Korea)	Other	Government of Korea
GR-W-178	685.39 (Republic of Korea, Singapore)	Telephone answering machines, and parts thereof	Government of Korea, Government of Singapore
GR-W-179	685.40 (Mexico, Republic of Korea, Singapore, Taiwan)	Tape recorders and dictation recording and transcribing machines (other than telephone answering machines), and parts thereof	Government of Korea, Government of Mexico, Government of Singapore, Taiwan Board of Foreign Trade
GR-W-180	685.70 (Malaysia, Singapore)	Bells, sirens, indicator panels, burglar and fire alarms, and other sound or visual signalling apparatus, all the foregoing which are electrical, and parts thereof	Government of Malaysia, Government of Singapore

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
GR-W-181	685.90 (Hong Kong, Mexico, Singapore, Taiwan)	Electrical switches, relays, fuses, lightning arresters, plugs, receptacles, lamp sockets, terminals, terminal strips, junction boxes and other electrical apparatus for making or breaking electrical circuits, for the protection of electrical circuits, or for making connections to or in electrical circuits; switchboards (except telephone switchboards) and control panels; all the foregoing and parts thereof	Government of Hong Kong, Government of Mexico, Government of Singapore, Taiwan Board of Foreign Trade
		Electric filament lamps and electric discharge lamps, including ultra-violet and infra-red lamps and photo-flash lamps; electric luminescent lamps; and arc lamps:	
GR-W-182	686.30 (Taiwan)	Filament lamps: Christmas-tree lamps	Taiwan Board of Foreign Trade
GR-W-183	686.60 (Mexico)	Sealed-beam lamps	Government of Mexico
GR-W-184	687.30 (Malaysia)	Electric luminescent lamps	Government of Malaysia
		Insulated (including enamelled or anodized) electrical conductors, whether or not fitted with connectors (including ignition wiring sets, Christmas-tree lighting sets with or without their bulbs, and other wiring sets): [Articles provided for in 688.04 and 688.05] Without fittings:	
GR-W-185	688.06 (Mexico)	Other	Government of Mexico

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Insulated (including enamelled or anodized) electrical conductors, etc. (con.):	
		With fittings:	
GR-W-186	688.10 (Taiwan)	Christmas-tree lighting sets, with or without their bulbs, and wiring sets similar thereto	Taiwan Board of Foreign Trade
		[Ignition wiring sets and wiring sets designed for use in motor vehicles and craft provided for in part 6 of schedule 6]	
		Other:	
GR-W-187	688.17 (Mexico)	With modular telephone connectors	Government of Mexico
GR-W-188	688.18 (Mexico)	Other	do.
		Electrical articles and electrical parts of articles, not specially provided for:	
		[Articles provided for in items 688.34 and 688.36]	
		Other:	
GR-W-189	688.41 (Taiwan)	Articles designed for connection to telegraphic or telephonic apparatus or instruments or to telegraphic or telephonic networks	Taiwan Board of Foreign Trade
GR-W-190	688.42 (Hong Kong, Singapore, Taiwan, Thailand)	Other	Government of Hong Kong, Government of Singapore, Taiwan Board of Foreign Trade, Seagate Technology, Scotts Valley, CA
		Chassis, bodies (including cabs), and parts of the foregoing motor vehicles:	
		[Bodies (including cabs) and chassis]	
		Other:	
		[Articles provided for in item 692.24]	
		Other:	
GR-W-191	692.29 (Mexico)	Automobile truck tractors, if imported without their trailers	Government of Mexico
GR-W-192	692.32 (Mexico)	Other	do.
GR-W-193	692.60 (Taiwan)	Vehicles (including trailers), not self-propelled, not specially provided for, and parts thereof	Taiwan Board of Foreign Trade

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Headwear, of vegetable fibers, of unspun fibrous vegetable materials, of real horsehair, of paper yarn, or of any combination thereof:	
		[Of cotton, flax, or both]	
		Other:	
		Headwear other than caps:	
		Sewed, whether or not blocked or trimmed:	
GR-W-194	702.32 (Mexico)	Of materials other than straw	Government of Mexico
		Not sewed, not blocked, and not trimmed:	
GR-W-195	702.35 (Mexico)	Of palm leaf or of pandan, and valued not over $3 per dozen	do.
		Not sewed, but blocked or trimmed:	
GR-W-196	702.45 (Mexico)	Valued not over $3 per dozen	do.
		Gloves of rubber or plastics:	
		Seamless:	
GR-W-197	705.82 (Malaysia)	Surgical and medical	Government of Malaysia
GR-W-198	705.83 (Malaysia)	Other	do.
		Eyeglasses, lorgnettes, goggles, and similar articles, all the foregoing whether used for corrective, protective, or other purposes; frames and mountings for any of the foregoing, and parts of such frames and mountings:	
		[Lorgnettes]	
		Other (except frames and mountings, and parts thereof):	
GR-W-199	708.45 (Republic of Korea)	Valued over $2.50 per doz.	Government of Korea, Korea Optical and Sunglasses Association, Seoul, Korea

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Medical, dental, surgical and veterinary instruments and apparatus (including electro-medical apparatus and ophthalmic instruments), and parts thereof:	
		[Optical instruments and appliances, and parts thereof:]	
		Other:	
		[Articles provided for in items 709.06 thru 709.23]	
		Other:	
		[Dental instruments, and parts thereof]	
GR-W-200	709.27 (Singapore)	Other	Baxter Travenol Laboratories, Inc., Deerfield, IL, Government of Singapore
		Hydrometers and similar floating instruments; thermometers, pyrometers, barometers, hygrometers, and psychrometers, whether or not recording instruments; any combination of the foregoing instruments; and articles in which one or more of such instruments are incorporated as significant integral parts and which are ordinarily used in the home or office where they are usually hung on the wall, or placed on mantels, shelves, or furniture:	
		Thermometers, pyrometers, barometers, hygrometers, and psychrometers, whether or not recording instruments:	
		Non-recording instruments:	
		Thermometers:	
		[Liquid-filled thermometers with the graduations on the tube or on a scale enclosed within an outer shell]	
GR-W-201	711.38 (Mexico)	Other	Government of Mexico
		Gas and liquid supply or production meters; watt-hour meters, ampere-hour meters, and other electricity supply or production meters designed to register the total amount of electricity or electrical energy produced or consumed; standard meters for checking and calibrating any of the foregoing meters; all the foregoing and parts therefor:	
GR-W-202	713.15 (Mexico)	Parts	do.

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Stroboscopes of all kinds, and parts thereof:	
GR-W-203	713.17 (Republic of Korea)	Stroboscopes	Pentron Products, San Jose, CA
GR-W-204	724.45 (Hong Kong)	Magnetic recording media not having any material recorded thereon	Government of Hong Kong
		Stringed musical instruments:	
		[Pianos (including player pianos, whether or not with keyboards); harpsichords, clavichords, and other keyboard stringed instruments; violins, violas, violoncellos, and double basses]	
		Other stringed instruments:	
		Guitars:	
GR-W-205	725.05 (Republic of Korea, Taiwan)	Valued not over $100	Government of Korea, The Guitar and Accessories Music Marketing Association, New York, NY, Korea Musical Instrument Industry Association, Seoul, Korea, The Music Distributors Association, New York, NY The National Council of Music Importers and Exporters, New York, NY
GR-W-206	725.08 (Republic of Korea)	Other	Government of Korea, Korea Musical Instrument Industry Association, Seoul, Korea
		Electronic musical instruments:	
GR-W-207	725.46 (Republic of Korea)	Fretted stringed instruments	Government of Korea, Korea Musical Instrument Industry Association, Seoul, Korea
	or	or	
GR-W-208	725.46pt. (Republic of Korea)	Electric guitars	The National Council of Music Importers and Exporters, New York, NY

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
GR-W-209	726.05 (Republic of Korea)	Cases for musical instruments	Government of Korea, Korea Musical Instrument Industry Association, Seoul, Korea
GR-W-210	726.25 (Taiwan)	Mutes for musical instruments; pedals, dampers, and spurs for drums; pedals and holders for cymbals; lyres and other music holders for attachment to musical instruments; and collapsible stands for holding music or for holding musical instruments	Taiwan Board of Foreign Trade
GR-W-211	726.75 (Malaysia)	Movements and other parts of music boxes	Government of Malaysia
GR-W-212	727.06 (Mexico)	Furniture designed for motor-vehicle use, and parts thereof	Government of Mexico
		Furniture, and parts thereof, not specially provided for:	
		Of unspun fibrous vegetable materials:	
GR-W-213	727.11 (Philippines)	Of rattan	Government of the Philippines
GR-W-214	727.13 (Philippines)	Of buri	do.
		Of wood:	
GR-W-215	727.15 (Singapore, Taiwan)	Bent-wood furniture, and parts thereof	Universal Furniture Industries, Inc., Whittier, CA
		Other:	
		Chairs:	
		Folding:	
GR-W-216	727.23 (Singapore, Thailand)	Director's chairs	Government of Thailand, Universal Furniture Industries, Inc., Whittier, CA
		Other:	
		[Of teak]	
GR-W-217	727.29 (Singapore, Taiwan)	Other	Taiwan Board of Foreign Trade, Universal Furniture Industries, Inc., Whittier, CA,
GR-W-218	727.35 (Singapore)	Furniture other than chairs	Universal Furniture Industries, Inc., Whittier, CA
GR-W-219	727.40 (Singapore, Taiwan)	Parts of furniture	do.

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Furniture, and parts thereof, etc. (con.): [Articles provided for in items 727.45 thru 727.65]	
GR-W-220	727.70 (Taiwan)	Other	Taiwan Board of Foreign Trade
		Equipment designed for sport fishing, fishing tackle, and parts of such equipment and tackle, all the foregoing not specially provided for: [Artificial baits and flies]	
GR-W-221	731.70 (Republic of Korea, Taiwan)	Other	K-Mart Corporation, Troy, MI
		Baby carriages, baby strollers, and parts thereof:	
GR-W-222	732.60 (Taiwan)	Of metal	Taiwan Board of Foreign Trade
GR-W-223	734.20 (Hong Kong)	Game machines, including coin or disc operated game machines and including games having mechanical controls for manipulating the action, and parts thereof	Tyco Industries, Moorestown, NJ
		Baseball equipment, and parts thereof:	
GR-W-224	734.54 (Republic of Korea, Taiwan)	Baseball and softball gloves and mitts	Government of Korea, Korea Leather and Fur Exporters, Korea Sporting Goods Industry Cooperative, Spalding Sports Worldwide, Chicopee, MA
GR-W-225	734.56 (Republic of Korea)	Other	Government of Korea, Korea Sporting Goods Industry Cooperative
		Golf equipment, and parts thereof: [Balls and parts thereof]	
GR-W-226	734.77 (Republic of Korea)	Other	Government of Korea, Korea Leather and Fur Exporters Association, Korea Sporting Goods Industry Cooperative
		Lawn-tennis equipment, and parts thereof:	
GR-W-227	734.85 (Indonesia)	Balls	Spalding Sports Worldwide, Chicopee, MA

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Skis and ski equipment, snowshoes, sleds, and toboggans, all the foregoing and parts thereof: [Articles provided for in items 734.95 thru 735.03] Other: [Cross-country ski equipment and parts thereof]	
GR-W-228	735.06 (Republic of Korea)	Other	Government of Korea, Korea Sporting Goods Industry Cooperative
GR-W-229	735.07 (Republic of Korea)	Boxing gloves, and other gloves, not provided for in the foregoing provisions of subpart D, of part 5 of schedule 7 of the Tariff Schedules of the United States, specially designed for use in sports	Government of Korea, Korea Leather and Fur Exporters Association, Korea Sporting Goods Industry Cooperative
		Beach balls, play balls, toy balls, and other balls for games or sports, not provided for in the foregoing provisions of subpart D of part 5 of schedule 7 of the Tariff Schedules of the United States:	
GR-W-230	735.09 (Republic of Korea, Taiwan)	Inflatable balls	Government of Korea, Korea Sporting Goods Industry Cooperative, Taiwan Board of Foreign Trade
		[Noninflatable hollow balls not over 7.5 inches in diameter; sponge rubber balls]	
GR-W-231	735.12 (Taiwan)	Other	Taiwan Board of Foreign Trade
GR-W-232	735.20 (Republic of Korea)	Puzzles; game, sport, gymnastic, athletic, or playground equipment; all the foregoing, and parts thereof, not specially provided for	Government of Korea, Korea Sporting Goods Industry Cooperative

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Model trains, model airplanes, model boats, and other model articles, all the foregoing whether or not toys; and construction kits or sets for making or assembling such model articles:	
		[Models of inventions and of other improvements in the arts, to be used exclusively as models]	
		Other models, and construction kits or sets:	
GR-W-233	737.07 (Hong Kong)	Rail locomotives and rail vehicles; railroad and railway rolling stock; track, including switching track; rail depots, round houses, signal towers, water towers, and other trackside structures; trolley buses and trolley-bus systems; cable-car systems; highway vehicles; ships and harbor structures; and airplanes and spacecraft; all the foregoing made to scale of the actual article at the ratio of 1 to 85 or smaller	Bachmann, Industries, Inc., Philadelphia, PA, Tyco Industries, Inc., Moorestown, NJ
		[Construction kits or sets with construction units prefabricated to precise scale of the actual article]	
GR-W-234	737.15 (Macau) or	Other	Government of Macau
		or	
		[Articles described in item 737.07, made to a scale of the actual article at a ratio larger than 1 to 85]	
GR-W-235	737.1560 (Macau, Republic of Korea, Taiwan)	Other	Shaper Manufacturing Co., Minneapolis, MN
		Dolls, and parts of dolls including doll clothing:	
GR-W-236	737.21 (Hong Kong)	Doll clothing imported separately	M & S Shillman, Inc., Brooklyn, NY, Totsy Manufacturing, Inc., Holyoke, MA

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Dolls, and parts of dolls, etc. (con.): Other: Dolls (with or without clothing):	
GR-W-237	737.23 (Hong Kong, Republic of Korea, Taiwan)	Stuffed	Government of Hong Kong, Hallmark Cards, Inc., Kansas City, MO, K-Mart Corporation, Troy, MI, Kenner Products, Inc., Cincinnati, OH, Mattel, Inc., Hawthorne, CA, Russ Berrie & Co., Inc., Oakland, NJ
		Toy figures of animate objects (except dolls): Not having a spring mechanism: Stuffed:	
GR-W-238	737.28 (Republic of Korea, Taiwan)	Valued not over 10 cents per inch of height	Government of Korea, Korea Toy Industry Cooperative, Mattel, Inc., Hawthorne, CA, Taiwan Board of Foreign Trade
GR-W-239	737.30 (Hong Kong, Republic of Korea, Taiwan)	Valued over 10 cents per inch of height	Commonwealth Toy and Novelty Co., Inc., New York, NY, Government of Korea, Hallmark Cards, Inc., Kansas City, MO, K-Mart Corporation, Troy, MI, Kenner Products, Inc., Cincinnati, OH, Korea Toy Industry Cooperative, Mattel, Inc., Hawthorne, CA, Russ Berrie & Co., Inc., Oakland, NJ, Taiwan Board of Foreign Trade

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Toy figures of animate objects (except dolls) (con.): Not having a spring mechanism (con.): Not stuffed:	
GR-W-240	737.35 (Republic of Korea)	Wholly or almost wholly of metal	Government of Korea, Korea Toy Industry Cooperative
GR-W-241	737.40 (Hong Kong, Republic of Korea, Taiwan)	Other	Easter Unlimited, Inc., Glen Cove, NY, Government of Hong Kong, Hallmark Cards, Inc., Kansas City, MO, K-Mart Corporation, Troy, MI, Kenner Products, Inc., Cincinnati, OH, Mattel, Inc., Hawthorne, CA, Russ Berrie & Co., Inc., Oakland, NJ
		Having a spring mechanism:	
GR-W-242	737.42 (Republic of Korea)	Wholly or almost wholly of metal	Government of Korea, Korea Toy Industry Cooperative, Mattel, Inc., Hawthorne, CA
		Toy figures of inanimate objects, not having a spring mechanism:	
GR-W-243	737.47 (Republic of Korea)	Stuffed or filled	Government of Korea, Korea Toy Industry Cooperative, Mattel, Inc., Hawthorne, CA
GR-W-244	737.49 (Hong Kong, Taiwan)	Other	Government of Hong Kong, Kenner Products, Inc., Cincinnati, OH, Mattel, Inc., Hawthorne, CA
GR-W-245	737.51 (Republic of Korea)	Skins for toy figures of animate or inanimate objects	Government of Korea, Korea Toy Industry Cooperative, Mattel, Inc., Hawthorne, CA
GR-W-246	737.60 (Hong Kong)	Toy musical instruments	Government of Hong Kong
		Toys, and parts of toys, not specially provided for:	
GR-W-247	737.80 (Macau)	Toys having a spring mechanism	Government of Macau

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Toys, and parts of toys, etc. (con.): Other: [Kites]	
GR-W-248	737.95 (Hong Kong, Republic of Korea, Macau, Mexico, Taiwan)	Other	Government of Hong Kong, Government of Korea, Government of Macau, K-Mart Corporation, Troy, MI, Kenner Products, Inc., Cincinnati, OH, Korea Toy Industry Cooperative, Mattel, Inc., Hawthorne, CA, Shaper Manufacturing Co., Minneapolis, MN, Taiwan Board of Foreign Trade, Tonka Corporation, Minnetonka, MN
	or	or [Toys having a friction or weight operated motor; toys having an electric motor] Other (except parts): [Wholly or almost wholly of rubber or plastics] [Inflatable]	
GR-W-249	737.9555 (Hong Kong, Taiwan)	Other	Danara International, Ltd., South Hackensack, NJ, Kiddie Products, Inc., Avon, MA, Sanitoy, Inc., Fitchburg, MA, Stahlwood Toy Manufacturing Co., Inc., Maspeth, NY

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Jewelry and other objects of personal adornment, and small articles ordinarily carried in the pocket, in the handbag, or on the person for mere personal convenience, all the foregoing, and parts thereof, of precious metal (including rolled precious metal), of precious stones, of natural pearls, of precious metal (including rolled precious metal) set with semiprecious stones, cameos, intaglios, amber, or coral, or of any combination of the foregoing:	
GR-W-250	740.05 (Thailand)	Of silver (including rolled silver) and valued not over $18 per dozen pieces or parts	Government of Thailand
		Jewelry and other objects of personal adornment not provided for in the foregoing provisions of part 6 of schedule 7 of the Tariff Schedules of the United States (except articles excluded by headnote 3 of subpart A of part 6 of schedule 7 of the Tariff Schedules of the United States), and parts thereof: Valued over 20 cents per dozen pieces or parts: [Watch bracelets]	
GR-W-251	740.38 (Hong Kong, Republic of Korea, Taiwan)	Other	Government of Hong Kong, Government of Korea, Korea Federation of Handicrafts Cooperative, Mattel, Inc., Hawthorne, CA, Russ Berrie & Co., Inc., Oakland, NJ, Taiwan Board of Foreign Trade, Timex Corporation, Waterbury, CN
		Safety pins, hair pins, and pins consisting of a single shaft pointed on one end and headed on the other, all the foregoing without ornamentation: Not plated with precious metal:	
GR-W-252	745.52 (Malaysia)	Dressmakers' or common pins	Government of Malaysia
GR-W-253	745.56 (Malaysia)	Safety pins	do.

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Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Artificial flowers, trees, foliage, fruits, vegetables, grasses, or grains, parts of the foregoing, and articles made of the foregoing (except articles provided for in item 748.15 or 748.55 of subpart B of part 7 of schedule 7 of the Tariff Schedules of the United States):	
GR-W-254	748.20 (Taiwan)	Wholly or almost wholly of plastics	Mattel, Inc., Hawthorne, CA, Taiwan Board of Foreign Trade
GR-W-255	748.21 (Taiwan)	Other	Taiwan Baord of Foreign Trade
		Combs:	
GR-W-256	750.05 (Hong Kong)	Valued not over $4.50 per gross	Ducair Bioessence, Inc., North Bergen, NJ
		Valued over $4.50 per gross:	
GR-W-257	750.15 (Hong Kong)	[Wholly or almost wholly of rubber] Other	do.
		Barrettes, hair-slides, tiaras, and other hair ornaments (except combs):	
GR-W-258	750.20 (Hong Kong, Taiwan)	Of rubber or plastics, not set with imitation pearls or imitation gemstones	Ducair Bioessence, Inc., North Bergen, NJ, Taiwan Board of Foreign Trade
GR-W-259	750.22 (Taiwan)	Other	Ducair Bioessence, Inc., North Bergen, NJ
		Other brooms and brushes:	
GR-W-260	750.40 (Hong Kong)	Tooth brushes	Ducair Bioessence, Inc., North Bergen, NJ Government of Hong Kong, H-G Industries, Long Beach, NJ, Janex Corporation, Ocean Port, NJ
		Toilet brushes, except tooth brushes:	
GR-W-261	750.45 (Hong Kong)	Valued not over 40¢ each	Ducair Bioessence, Inc., North Bergen, NJ
GR-W-262	750.75 (Taiwan)	Combination toilet articles which contain combs, brushes, or combs and brushes, as integral parts	do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified in the request. However, the Trade Policy Staff Committee (TPSC), reserves the right to consider, in respect of each case, the waiver of competitive-need limits for any or all beneficiary countries.

Requests for Competitive-Need Waiver Accepted for Review (con.)

	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
	751.05 (Taiwan)	Umbrellas	Taiwan Board of Foreign Trade
		Cigar and cigarette lighters (including articles in which lighters are incorporated as significant integral parts), and parts thereof: Pocket lighters, combination pocket and table lighters, and articles in which lighters are incorporated as integral parts and which are ordinarily carried in pockets or handbags: [Of precious metal (except silver), of precious or semiprecious stones, or of such metal and such stones] Other:	
GR-W-264	756.04 (Philippines)	Valued not over $5 per dozen pieces	Government of the Philippines
		Expanded, foamed, or sponge rubber or plastics, and articles not specially provided for wholly or almost wholly of such rubber or plastics: Flexible:	
GR-W-265	770.40 (Mexico)	Of polyurethane	Colombin Bel, S.A. de C.V., Mexico, Government of Mexico
		Film, strips, sheets, plates, slabs, blocks, filaments, rods, seamless tubing, and other profile shapes, all the foregoing wholly or almost wholly of rubber or plastics: Not of cellulosic plastics materials: Film, strips, and sheets, all the foregoing which are flexible: [Made in imitation of patent leather] Other: [Of materials other than polyester, polyvinyl chloride, polyethylene, or polypropylene, over 0.006 inch in thickness, and not in rolls]	
GR-W-266	771.43 (Taiwan)	Other	Taiwan Board of Foreign Trade
		Other:	
GR-W-267	771.45 (Taiwan)	Of acrylic resin	do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified in the request. However, the Trade Policy Staff Committee (TPSC), reserves the right to consider, in respect of each case, the waiver of competitive-need limits for any or all beneficiary countries.

Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Articles chiefly used for preparing, serving, or storing food or beverages, or food or beverage ingredients; and household articles not specially provided for; all the foregoing of rubber or plastics:	
		[Salt, pepper, mustard, and ketchup dispensers, and similar dispensers]	
GR-W-268	772.06 (Mexico)	Plates, cups, saucers, soup bowls, cereal bowls, sugar bowls, creamers, gravy boats, serving dishes, and platters	Vitro Envases, Mexico
GR-W-269	772.09 (Mexico)	Trays	do.
GR-W-270	772.15 (Hong Kong, Taiwan)	Other	Ducair Bioessence, Inc., North Bergen, NJ, Hallmark Cards, Inc., Kansas City, MO
GR-W-271	772.20 (Hong Kong)	Containers, of rubber or plastics, with or without their closures, chiefly used for the packing, transporting, or marketing of merchandise	Ducair Bioessence, Inc., North Bergen, NJ
		Wearing apparel (including rainwear) not specially provided for, of rubber or plastics:	
		[Infants' pants, wholly of rubber or plastics]	
		Other:	
		[Aprons]	
		Other:	
		[Containing 50% or more by weight of cotton, wool, or man-made fibers, or any combination thereof, or containing 50% or more by weight of textile materials with wool comprising 17% or more by weight]	
GR-W-272	772.3195 (Hong Kong)	Other	do.
		Hose, pipe, and tubing, all the foregoing not specially provided for, of rubber or plastics, suitable for conducting gases or liquids, with or without attached fittings:	
		Rigid:	
GR-W-273	772.6510 (Mexico)	Of polyvinyl chloride	Government of Mexico
GR-W-274	772.85 (Hong Kong)	Caps, lids, seals, stoppers, and other closures, all the foregoing of rubber or plastics	Ducair Bioessence, Inc., North Bergen, NJ

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified in the request. However, the Trade Policy Staff Committee (TPSC), reserves the right to consider, in respect of each case, the waiver of competitive-need limits for any or all beneficiary countries.

Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Nativity scenes; Christmas ornaments; crucifixes; miniature altars, shrines, and holy-water fonts; religious figurines and statuettes; other religious articles; all the foregoing (not including any article provided for in part 6A of schedule 7 of the Tariff Schedules of the United States) of rubber or plastics:	
GR-W-275	772.95 (Hong Kong)	Christmas tree ornaments	Hallmark Cards, Inc., Kansas City, MO
GR-W-276	773.05 (Taiwan)	Toys for pets, of rubber or plastics	Taiwan Board of Foreign Trade
		Articles not specially provided for, of rubber or plastics: [Articles provided for in items 774.20 thru 774.40] Other: [Artificial flowers, trees, foliage, fruits, vegetables, grasses, or grains, all the foregoing, wholly or almost wholly of plastics, other than articles classifiable in item 748.20; parts of footwear]	
GR-W-277	774.55 (Hong Kong, Taiwan) or	Other or [Copper clad laminates; flexible plastic document binders with tabs, rolled or flat]	Government of Hong Kong, Russ Berrie & Co., Inc., Oakland, NJ, Taiwan Board of Foreign Trade
GR-W-278	774.5595 (Hong Kong)	Other	Ducair Bioessence, Inc., North Bergen, NJ
GR-W-279	790.03 (Taiwan)	Casters	Taiwan Board of Foreign Trade
GR-W-280*	790.70 (Republic of Korea)	Wigs, toupees, chignons, and similar articles	Government of Korea, Korean Hair Goods Export Association, Seoul, Korea

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified in the request. However, the Trade Policy Staff Committee (TPSC), reserves the right to consider, in respect of each case, the waiver of competitive-need limits for any or all beneficiary countries.

Requests for Competitive-Need Waiver Accepted for Review (con.)

Case No.	TSUS or TSUSA 1/ 2/ item No.	Article	Petitioner
		Wearing apparel not specially provided for, of fur on the skin:	
		[Of silver, black, or platinum fox; of dog, goat, or kid]	
GR-W-281	791.15 (Hong Kong, Republic of Korea)	Other	Government of Hong Kong, Korea Leather and Fur Exporters Association
		Leather cut or wholly or partly manufactured into forms or shapes suitable for conversion into footwear:	
		[Patent leather]	
		Other:	
GR-W-282	791.27 (India)	Uppers	Florsheim Shoe Company, Chicago, IL
GR-W-283	791.28 (India)	Other	do.
		Articles not specially provided for:	
GR-W-284	792.50 (Philippines)	Of shell	Government of the Philippines

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified in the request. However, the Trade Policy Staff Committee (TPSC), reserves the right to consider, in respect of each case, the waiver of competitive-need limits for any or all beneficiary countries.

[FR Doc. 85-18760 Filed 8-6-85; 8:45 am]
BILLING CODE 3190-01-C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular 25-XX; Smoke Detection, Penetration, and Evacuation Tests

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed advisory circular (AC) 25-XX, and request for comments.

SUMMARY: This notice announces the availability of and requests comments on a proposed advisory circular (AC) which provides an acceptable means to verify the effectiveness of the methods used to detect and evacuate smoke and to prevent the accumulation of hazardous concentrations of gases, vapors, or smoke. This notice is necessary to give all interested persons an opportunity to present their views on the proposed AC.

DATES: Comments must be received on or before November 7, 1985.

ADDRESS: Send all comments on the proposed AC to: Federal Aviation Administration, Attention: Transport Standards Staff, ANM-110, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Comments may be inspected at the above address between 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jan Thor, Transport Standards Staff, at the address above, telephone (206) 431-2127.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the draft AC may be obtained by contacting the person named above under "**FOR FURTHER INFORMATION CONTACT.**" Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Commenters should identify AC 25-XX and submit comments, in duplicate, to the address specified above. All communications received on or before the closing date for comments will be considered by the Transport Standards Staff before issuing the final AC.

Background

The proposed AC establishes guidance for uniform test procedures associated with smoke generation and airplane smoke detection, penetration and evacuation performance. These tests would verify that the methods used to prevent the accumulation of hazardous concentrations of gases, vapors, or smoke, or methods used to detect or evacuate smoke, accomplish their intended function. In lieu of the test methods specified in this AC, the applicant may elect to follow an alternate test method provided the alternate method is also found by the FAA to be an acceptable means of complying with the applicable portions of §§ 25.831, 25.855, 25.857, 25.1301 and 25.1359.

Issued in Seattle, Washington, on July 25, 1985.

Leroy A. Keith,

Manager, Aircraft Certification Division, ANM-100.

[FR Doc. 85-18681 Filed 8-6-85; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

[Waiver Petition Docket Number RSRSP-85-1]

Petition for Exemption or Waiver of Compliance; The Alaska Railroad Corp.

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration has received a request from the Alaska Railroad Corporation (Alaska Railroad) for an exemption from or waiver of compliance with certain requirements of FRA's Radio Standards and Procedures (49 CFR Part 220).

The Alaska Railroad's petition for exemption has been assigned Docket Number RSRSP-85-1. The Alaska Railraod seeks exemption from 49 CFR 220.27(a)(1) and 220.27(b)(1), which require the indentification of each wayside, base, or yard station and each mobile station to include the name of the railroad, an abbreviated name, or the initials of the railroad. Since the Alaska Railroad is the only railroad operating in the State of Alaska and since it has the exclusive right to use railroad radio frequencies in the State, that railroad believes that safety would not be compromised if it were to no longer announce the name of the railroad before each radio transmission.

Interested parties are invited to participate in this proceeding by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with this proceeding since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their requests.

All communications concerning this proceeding should refer to Waiver Petition Docket Number RSRSP-85-1 and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before September 25, 1985, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning this proceeding are available for examination during regular business hours (9 a.m.-5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued in Washington, D.C., on August 1, 1985.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 85-18712 Filed 8-6-85; 8:45 am]

BILLING CODE 4910-06-M

Saint Lawrence Seaway Development Corporation

Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 9:00 a.m., September 11, 1985, at the Corporation's Operations Headquarters Conference Room, 180 Andrews Street, Massena, New York. The agenda for this meeting will be as follows: Opening Remarks, Consideration of Minutes of Past Meeting; Review of Programs; Business; Closing Remarks.

Attendance at meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact not later than September 4, 1985, Joan C. Hall, Advisory Board Liaison, Saint Lawrence Seaway Development Corporation, 400 Seventh Street SW., Washington, D.C. 20590; 202/426-3574.

Any member of the public may present a written statement to the Advisiory Board at any time.

Issued at Washington, D.C. on August 2, 1985.

Joan C. Hall,

Advisory Board Liaison.

[FR Doc. 85-18704 Filed 8-6-85; 8:45 am]

BILLING CODE 4910-61-M

DEPARTMENT OF THE TREASURY

Senior Executive Service; Performance Review Board; Membership

ACTION: Notice of change in membership of a senior executive service performance review board (PRB).

SUMMARY: This notice announces the revised membership of the Departmental PRB, pursuant to 5 U.S.C. 4314(a)(4), the Civil Service Reform Act of 1978. The purpose of the Board is to review proposed performance appraisals, ratings, bonuses and other appropriate personnel actions for incumbents of non-delegated SES positions. These positions include SES bureau heads, deputy bureau heads, bureau chief inspectors, Associate Commissioners of the Internal Revenue Service, and certain other positions. The Board makes recommendations to the Secretary or his designee as Appointing Authority. The Board will perform PRB functions for other top bureau positions if requested. Three members constitute a quorum, at least two of whom must be career appointees. In addition, the Board will review proposed SES bonus distributions, SES incentive award requests, and Presidential Rank nominations from the bureaus if requested.

FOR FURTHER INFORMATION CONTACT: Philip E. Carolan, Acting Director of Personnel, Room 7115, ICC Building, 1201 Constitution Avenue NW., Washington, DC 20220; telephone 566–2701.

SUPPLEMENTARY INFORMATION: The revised membership of the Departmental PRB is as follows:

John F.W. Rogers, Assistant Secretary of the Treasury (Management)
D. Edward Wilson, Jr., Deputy Assistant Secretary for Departmental Management
Paul Cooksey, Deputy Assistant Secretary for Administration
Joseph E. Bishop, Acting Deputy Assistant Secretary for Information Systems
Gerald Murphy, Deputy Fiscal Assistant Secretary
Roscoe L. Eggers, Jr., Commissioner, Internal Revenue Service
Robert J. Leuver, Director, Bureau of Engraving and Printing
Richard L. Gregg, Deputy Commissioner, Bureau of Public Debt
John A. Kilcoyne, Assistant Fiscal Assistant Secretary (Banking)
William E. Douglas, Commissioner, Financial Management Service
John P. Simpson, Director, Office of Regulations and Rulings, U.S. Customs Service
James I. Owens, Deputy Commissioner, Internal Revenue Service
Michael F. Hill, Director, Office of Revenue Sharing
George N. Carlson, Director, Office of Tax Analysis
Alfred R. De Angelus, Deputy Commissioner, U.S. Customs Service
Katherine D. Ortega, Treasurer of the United States
Larry E. Rolufs, Deputy to the Treasurer
Edward Stevenson, Deputy Assistant Secretary (Operations)
Margery Waxman, Deputy General Counsel
S.F. Timothy Mullen, Director, Office of Administrative Programs

This notice does not meet the Department's criteria for significant regulations.

D. Edward Wilson, Jr.,
Deputy Assistant Secretary (Management) for Departmental Management.

[FR Doc. 85–18608 Filed 8–6–85; 8:45 am]
BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

A Grants Program for Private Not-for-Profit Organizations in Support of International Educational and Cultural Activities; Cancellation of Workshop.

Reference the U.S. Information Agency's announcement of a workshop on "Cooperative National Community Approaches to Rural and Urban Drug Abuse", which appeared in the **Federal Register** on June 20, 1985, page 25648.

This is to advise that the said workshop has been cancelled.

Dated: August 2, 1985.

Charles N. Canestro,
Federal Register Liaison.

[FR Doc. 85–18671 Filed 8–6–85; 8:45 am]
BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 152
Wednesday, August 7, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., August 13, 1985.

PLACE: 2033 K Street, NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Proposed revisions to Non-Agricultural Options Pilot Program.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85–18767 Filed 8–5–85; 10:38 am]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., August 13, 1985.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Reviews.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85–18768 Filed 8–5–85; 10:38 am]

BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., August 23, 1985.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Reviews.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR. Doc. 18769 Filed 8–5–85; 10:38 am]

BILLING CODE 6351-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:20 p.m. on Thursday, August 1, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to adopt a resolution (1) making funds available for the payment of insured deposits in Riverside National Bank of Houston, Houston, Texas, which had been closed by the Deputy Comptroller of the Currency, Office of the Comptroller of the Currency, on Thursday, August 1, 1985; (2) accepting the bid of and appointing People Bank, National Association, Houston, Texas, a newly-chartered national bank subsidiary of Bay Banchares, Inc., La Porte, Texas, as the transfer agent for the Corporation for the payment of insured and fully secured deposits of the closed bank; and (3) making funds available for an advance payment to uninsured depositors and other creditors of Riverside National Bank of Houston equal to 50 percent of their outstanding claims.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Michael A. Mancusi, acting in the place and stead of Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the maters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 2, 1985.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 85–18786 Filed 8–5–85; 11:25 am]

BILLING CODE 6714-01-M

5

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 50 FR 30255, July 24, 1985.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., Monday, July 29, 1985.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting: Request from an outside organization for funding.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

This copy of the Board's July 26, 1985, notice was made and resubmitted to the **Federal Register** on August 2, 1985.

Dated: July 26, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85–18739 Filed 8–2–85; 4:40 pm]

BILLING CODE 6210-01-M

6

INTERNATIONAL TRADE COMMISSION

[USITC SE-85-33]

TIME AND DATE: Wednesday, August 14, 1985 at 2:00 p.m.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratification List.
4. Petitions and Complaints:
   (a) Certain mass spectrometers and components thereof (Docket number 1223).
   (b) Certain one piece cold forged bicycle cranks (Docket number 1226).
5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–18743 Filed 8–2–85; 4:47 pm]

BILLING CODE 7020-02-M

7

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 2:00 p.m., Thursday, August 8, 1985.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, NW.

STATUS: Closed to public observation pursuant to 5 U.S.C. 552b(c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy)

MATTERS TO BE CONSIDERED: Selection of Regional Directors for Regions 15 (New Orleans, Louisiana), and 17 (Kansas City, Kansas).

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, Washington, D.C. 20570, Telephone: (202) 254–9430.

Dated: Washington, D.C., 2 August 1985.

By direction of the Board:

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 85–18765 Filed 8–5–85; 10:27]

BILLING CODE 7545-01-M

8

NATIONAL SCIENCE BOARD

DATE AND TIME:

August 15, 1985
12:00–12:10 p.m. Open session.
12:10–12:50 p.m. Closed session.
August 16, 1985
9:00–9:15 p.m. Closed session.
9:15–9:30 p.m. Open session.

PLACE: National Science Foundation, Washington, DC.

STATUS: Part of this meeting will be closed to the public. Part of the meeting will be open to the public.

MATTERS TO BE CONSIDERED AUGUST 15:

Open Session (12:00–12:10 p.m.): Grants, Contracts, and Programs.
Closed Session (12:10–12:50 p.m.): Grants, Contracts, and Programs.

MATTERS TO BE CONSIDERED AUGUST 16:

Closed Session (9:00–9:15 a.m.):
1. Minutes—June 1985 Meeting.
2. NSB and NSF Staff Nominees.
Open Session (9:15–9:30 a.m.):
3. Minutes—June 1985 Meeting.
4. NSF FY 1987 Budget.

Margaret L. Windus,

Executive Officer.

[FR Doc. 85–18837 Filed 8–5–85; 3:52 pm]

BILLING CODE 7555-01-M

federal register

Wednesday
August 7, 1985

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

Colorado Abandoned Mine Land Reclamation Plan Amendment; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

Colorado Abandoned Mine Land Reclamation Plan Amendment

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: On April 29, 1985, the State of Colorado submitted to OSM a proposed amendment to its Abandoned Mine Land Reclamation (AMLR) Plan. The proposed amendment involves modifying the AMLR plan to include noncoal reclamation projects. OSM is seeking public comment on the proposed amendment.

DATES: Written comments on the amendment must be received on or before 5:00 p.m., August 22, 1985. A public hearing will be held on the amendment if sufficient requests for such a hearing are received.

ADDRESSES: Copies of the full text of the proposed amendment are available for review at the following locations: State of Colorado, Department of Natural Resources, 423 Centennial Building, 1313 Sherman Street, Denver, Colorado 90203 and Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 219 Central Avenue, NW., Albuquerque, New Mexico 97102.

Written comments must be mailed or hand carried to the Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office at the address given above. Comments received after 5:00 p.m., August 22, 1985, will not ordinarily be considered or included in the administrative record for this rulemaking.

The administrative record will be available for public review at the OSM Albuquerque Field Office on Monday through Friday, 8:00 a.m. to 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Robert Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 219 Central Avenue, NW., Albuquerque, New Mexico 97102, telephone (505) 766–2609.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law. Title IV provides that a State with an approved AMLR program has the responsibility and primary authority to implement an abandoned mine land reclamation program.

The Colorado AMLR plan was approved on June 11, 1982. On April 29, 1985, Colorado submitted a proposed amendment to the plan. An approved State AMLR plan can be amended under the provisions of 30 CFR 884.15. Under these provisions, if the amendment or revision changes the objectives, scope, or major policies followed by the State in the conduct of its reclamation program, the Director should follow the procedures set out in 30 CFR 884.14 in approving an amendment or revision of a State reclamation plan. This notice of proposed rulemaking begins the process of review of the proposed amendment.

Representatives of OSM's Field Office Director will be available to meet Monday through Friday, excluding holidays, between 8:00 a.m. and 4:00 p.m. at the OSM address indicated above to hear comments from the general public concerning the proposed amendment. Persons wishing to meet with OSM representatives should make their interests known by contacting Wayne Oliver, AML Program Specialist, Albuquerque Field Office, telephone (505) 766–2609.

The Department intends to continue to discuss the State's amendment with representatives of the State throughout the review process. All contacts between Departmental personnel and representatives of the State will be conducted in accordance with OMS's guidelines on contacts with States published September 19, 1979, at 44 FR 54444.

The Office of Surface Mining has examined this proposed rulemaking under section 1(b) of Executive Order No. 12291 (February 17, 1981) and has determined that, based on available quantitative data, it would not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval would not have an effect on costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; and

2. Approval would not have adverse effects on competition, employment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export market.

This proposed rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule would not have significant economic effects on a substantial number of small entities. The reason for this determination is that approval would not have demographic effects, direct costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effect on small entities.

Further, the Office of Surface Mining has determined that the Colorado AML Plan amendment does not have a significant effect on the quality of the human environment because the decision relates only to the policies, procedures and organization of the State's Abandoned Mine Land Reclamation program. Therefore, under the Department of the Interior Manual DM 5262.3(A)(1), the Assistant Secretary's decision on the Colorado amendment is categorically excluded from the National Environmental Policy Act requirements.

As a result, no environmental assessment (EA) or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS has been prepared by OSM in conjunction with the implementation of Title IV in general. Moreover, an EA or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886

The Colorado AML plan amendment can be approved if all the following occur:

1. The Assistant Secretary finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.

2. Views of other Federal agencies have been solicited and considered.

3. The State has the legal authority, policies and administrative structure to carry out the amendment.

4. The amendment meets all requirements of the OSM, AMLR program provisions.

5. The State has an approved Surface Mining Regulatory Program.

6. It is determined that the amendment is in compliance with all applicable State and Federal laws and regulations.

Descriptions of the Proposed Amendment

Chapter VI of Colorado's AMLR Plan, entitled "Policies and Administrative Procedures", would be amended to include in addition to 900 already identified AML coal sites, 9,000 noncoal sites. The amendment specifically sets out the State's intent to undertake the reclamation of sites adversely impacted by noncoal mining as part of its reclamation program approved under Title IV of SMCRA.

Under the State's AML Plan, it would consider reclaiming noncoal AML sites when they constitute a hazard to public health and safety, or degrade the environment. Generally, noncoal reclamation would occur only after the State had accomplished all coal related reclamation. The one exception would be that noncoal reclamation could be conducted prior to all coal reclamation being accomplished if the site poses a direct threat to the public health or safety, and the governor specifically requests funds for such purposes.

List of Subjects in 30 CFR Part 906

Coal mining, Noncoal reclamation, Surface mining, Underground mining.

Dated: July 30, 1985.

J. Steven Griles,

Deputy Assistant Secretary for Land and Minerals Management.

For the reasons set out in the preamble, it is proposed to amend 30 CFR Part 906 as follows:

PART 906—COLORADO

1. The authority citation of Part 906 is revised to read as follows:

Authority: Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*

2. Section 906.20 is revised to read as follows:

§ 906.20 Approval of the Colorado Abandoned Mine Plan.

The Colorado Abandoned Mine Plan, as amended is approved. Copies of the approved program are available at the following locations:

State of Colorado, Department of Natural Resources, 423 Centennial Building, 1313 Sherman Street, Denver, Colorado 90203 and Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 219 Central Avenue, NW., Albuquerque, New Mexico 97102.

[FR Doc. 85–18642 Filed 8–6–85; 8:45 am]
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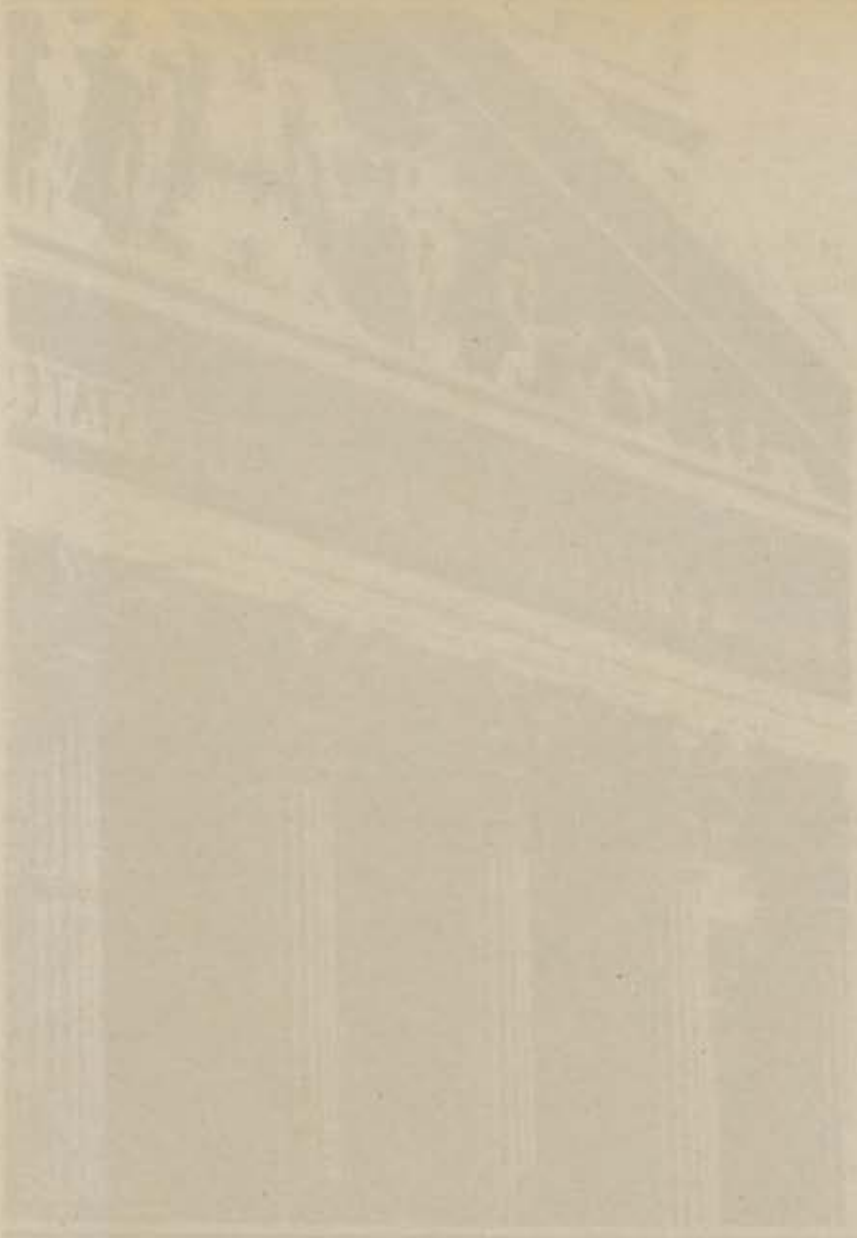
H.J. Res. 164/Pub. L. 99-78

To designate August 4, 1985, as "Freedom of the Press Day". (Aug. 2, 1985; 99 Stat. 179) Price: $1.00

S.J. Res. 180/Pub. L. 99-79

Commemorating the tenth anniversary of the signing of the Helsinki Final Act. (Aug. 2, 1985, 99 Stat. 180) Price: $1.00



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